LEGISLATIVE COUNCIL

Thursday 11 April 1991

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 11 a.m. and read prayers.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. C.J. SUMNER: I move:

Page 1, line 13—Leave out 'a day to be fixed by proclamation' and insert '1 January 1992'.

This amendment brings the proclamation date of the Act into line with that of the Freedom of Information Bill that has already been passed.

The Hon. K.T. GRIFFIN: I will be handling the Committee stage of this Bill for the Hon. Jamie Irwin because he is attending a police officer's funeral. So, when we get to the stage of considering his amendments I will be seeking to move them on his behalf. I am not sure whether I will need full leave to do it or whether we can deal with them on an individual basis. As to this amendment, I am happy to accept it. This is consistent with the amendments that were finally agreed to in relation to the Freedom of Information Bill, and I think there is a desirability for there to be as much consistency as possible between this legislation and the Freedom of Information Act.

There are one or two areas where there will be some differences, but they will mainly be acceptable on the basis that local government has a different structure from that of the State Government and, generally, will act through formally constituted meetings of councils rather than through bureaucrats. That is just by way of preliminary comment. I am quite comfortable with this legislation coming into operation on 1 January 1992.

Amendment carried; clause as amended passed.

New clause 2a—'Annual Report.'

The Hon. C.J. SUMNER: I move:

Page 1, after line 13—Insert new clause as follows:

2a. Section 42a of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) The report must state the number of council certificates issued under section 65av in respect of restricted documents, the nature of the documents to which the certificates related and the provisions of Part VA by virtue of which the documents were restricted.

This provides for specific information relating to council certificates and restricted documents to be set out in a council's annual report. Again, this provision is consistent with the requirement in the Freedom of Information Act.

The Hon. K.T. GRIFFIN: The Opposition supports this amendment. It is important that, where a council issues a certificate under section 65av, when the document is restricted, that fact ought to be intimated publicly, and the annual report is an appropriate place for that.

New clause inserted.

Clause 3—'Insertion of Part VA.'

The Hon. C.J. SUMNER: I move:

Page 1, line 24—Leave out the definition of 'District Court'.

This amendment removes the definition of 'District Court'. The amendment follows a proposed amendment to the appeal provisions in subdivision III of division VI. The Government's view now is that an appeal in relation to FOI in the local government area should go to a Magistrates Court.

The Hon. K.T. GRIFFIN: As I understand it, it is not going to the Magistrates Court but to the Local Court, of course constituted of a magistrate but distinguished from the criminal jurisdiction. One of my concerns is that the Attorney-General's amendments filed do not deal with the final right of appeal. In the principal Freedom of Information Act it was finally agreed at the conference that there should be an appeal from a decision of a District Court to the Supreme Court, and it was not limited only to matters of law but was an open-ended appeal on the basis that that was the best way to ensure proper accountability of inferior courts.

I note that in the amendments that have been filed in the name of the Attorney-General the right of appeal from a decision of a court—whether the District Court or the Local Court remains to be seen—is on matters of law only, and there are no appeals on matters of fact. That is different from the Freedom of Information Act we have now passed. I would be comfortable with the Local Court being the appeal court, rather than the District Court, in circumstances in which there was an unlimited appeal to the Supreme Court from a decision of the Local Court.

The Local Court needs, ultimately, to be accountable for the decisions that it makes, not only in relation to the law but also in relation to facts. I would be quite comfortable, as I said, with the Local Court exercising the appeal rights of applicants for access to information at the local level, provided that there was ultimately oversight by the Supreme Court of the proceedings of the Local Court. If that is not to occur—if the Attorney indicates that he will not support the same provision in this Bill as is now in the Freedom of Information Act—I would want to insist upon the District Court and still proceed later to move my amendment, which makes it an unlimited appeal from a decision of the court to the Supreme Court. I suppose that is a slightly circuitous way of saying that I am happy with the Local Court only if I get an indication that there will be no limit on the right of appeal from a decision of the Local Court.

Some minor matters will be considered by the Local Court, but there will also be some major matters, such as planning approval, which can involve multi-million dollar consequences to individuals and significant effect upon local communities. Where there are decisions relating to access to information about multi-million dollar projects, we would not ordinarily entrust a review of those decisions to a Local Court magistrate. We would want some higher level judicial officer to undertake that responsibility.

Of course, members should realise that that is to a Local Court of limited jurisdiction, where the magistrate presently has jurisdiction up to $20 000. Most cases on appeal from a decision of a council in relation to access to documents under this legislation will probably not be matters of major moment to the community. However, where they are, I think there needs to be proper ultimate accountability.

I know that some members will have a concern about the potential costs of that, but I suggest that at least it enshrines a right, rather than cuts off an opportunity for review of a decision by a magistrates court which could create considerable injustice. It is my view that it is better to have a provision that gives a right and allows people to use it, even at a cost to those people, if they decide that they want to use it, rather than saying, 'There is an injustice, but we will not give you the right to have that injustice reviewed.' That is more likely to arise in relation to factual matters than in relation to matters of law.

Before making a final commitment on this amendment, I would like the Attorney to indicate whether there would be any objection to a later amendment to provide the same right of appeal from a decision of the court under this legislation as there is under the Freedom of Information Act, which we have only recently passed.

The Hon. C.J. SUMNER: The Government would prefer it as it has been introduced.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Except that, in general, local government will be dealing with matters of lesser importance. The concern that has been put to me is that local government will have the resources to fight these matters in the superior courts and the ordinary citizen may not, and that the Hon. Mr Griffin is putting a barrier in the way of the ordinary citizen. That is the view that has been put to me. But, if the Democrats take the view that it should be consistent—and I agree generally that it should be consistent with the other Bill that we have passed—that is the end of the argument as far as the Government is concerned.

The Hon. M.J. ELLIOTT: Many concerns have led to this proposed amendment, which produces an inconsistency with the other legislation. I believe that on balance the amendment is worth while and I will support it.

The Hon. K.T. GRIFFIN: I can appreciate that the Hon. Mr Elliott is supporting the change from 'District Court' to 'Local Court'. I am disappointed that he is not yet prepared to give an indication about the question of appeal, but it is his right not to give an indication until we get to it.

I will not raise any objection at present to the change from 'District Court' to 'Local Court', provided that at a later stage the question of an appeal is consistent with the Freedom of Information Act. I can appreciate the argument that the Attorney-General says has been put to him about costs, but there is another side to that. For example, a council using its power to say, 'No, you cannot have access,' may fight the issue before the Magistrates Court and it may win. However, the citizen may still feel that, for any of a variety of reasons, the magistrate is wrong and that the matter should go to appeal.

It seems to me that, unless we have an unlimited right of appeal against that decision of the magistrate, we put a magistrate in a position of being the final arbiter, so the magistrate is not accountable. Although there are many decisions in relation to the freedom of information of a council's documents and papers, there are also matters of considerable significance to ordinary citizens: it may even involve the establishment of a major development in a residential area which the residents oppose.

In the process of consideration of such a matter, the council may be blocking access to reports and other papers. That will have a significant consequence not only for the council and possibly the potential developer, but also for the ordinary citizens. In those circumstances, I suggest that we ought to have not just a magistrate, but a superior court, look at it if there is a question about the way in which the magistrate has exercised his or her functions. For that reason, I believe that the ultimate right of appeal is important, that it ought to be consistent with the Freedom of Information Act and that it ought to be unlimited.

I respect the view of the Hon. Mr Elliott that he will not jump the hurdle yet. I am disappointed in it; I will not divide on the amendment before us but I certainly reserve the right to deal with it more fully when we come to the point of determining the right of appeal to the Supreme Court.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 3, line 16—After 'from' insert 'either council, the Government of South Australia or'.

I move this amendment to new section 65*(e)* to ensure that provisions in paragraph *(b)* relating to notices are consistent with the tiers of Government referred to in paragraph *(a)*. The current provisions do not include reference to the State Government or councils.

The Hon. K.T. GRIFFIN: I am happy to support this amendment, but I ask whether there is a typographical error; instead of 'either council, the Government of South Australia or', should it be 'either a council . . '? Subject to clarifying that (I think it is a typographical error), I am happy to support the amendment.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 3, line 18—After 'of' (first occurring) insert 'this Act, the Freedom of Information Act 1991 or'.

This is consequential.

The Hon. K.T. GRIFFIN: I support the amendment.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 3, lines 27 to 30—Leave out subparagraph (ii) and substitute subparagraph as follows:

(ii) would divulge information communicated in confidence by or on behalf of a council or the Government of South Australia or of the Commonwealth to a council or a person or body receiving the communication on behalf of a council;.

This amendment is aimed at clarifying the intent of the provision. The wording of subparagraph (ii) of the Bill is confusing, and this amendment makes clear that it is information received in confidence by a council that is protected, not information communicated by it.

Amendment carried.

The Hon. K.T. GRIFFIN: I will not move the amendment proposed by the Hon. Mr Irwin, but it is:

Page 6, lines 14 to 18—Leave out subsection (2).

I have had discussions with him to the effect that councils should not be in commercial activities in the first place. He acknowledges that the amendment was proposed with a view to taking the opportunity merely to make that point. He accepts that, if a council is permitted by law to be engaged in commercial activities, most probably that information about the commercial activities should not be available publicly. I have only one question about subsection (2) that is the subject of the comment, and that is whether it relates to the council generally and can be construed as that, or whether it relates to the commercial activities of the council.

There is an argument which says that if a council happens to engage in commercial activities, not only documents relating to those commercial activities might be the subject of exemption. Rather than moving the amendment, I raise the question with the Attorney-General whether it would not be more appropriate to say that a document is an exempt document if it relates to the commercial activities of a council and if it contains matters the disclosure of which could prejudice the competitiveness of the council in carrying on its commercial activities.

The Hon. C.J. SUMNER: The Government is prepared to accept that there may be some ambiguity in the way that the Bill is expressed at present. I put forward for consideration by the honourable member that proposed section 65o (2) *(a)* should provide that 'a document is an exempt document if it relates to commercial activities engaged in by a council'.

The Hon. K.T. GRIFFIN: I am happy with that amendment. I think it clarifies the matter significantly, so if the Attorney-General moves it I will support it.

The Hon. C.J. SUMNER: I move:

Page 6, line 15—Leave out paragraph *(a)* and substitute paragraph as follows:

(a) it relates to commercial activities engaged in by a council;'

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 7, line 7—After 'council' insert '(including of any board, committee or other body constituted by two or more persons that is part of the council or has been established for the purpose of advising the council and whose meetings are open to the public or the minutes of whose meetings are available for public inspection)'.

This amendment seeks to make clear the structures that need to be covered within the information statement. It clarifies new section 65r (2) *(a)* and is based on a similar provision in the Freedom of Information Act.

The Hon. K.T. GRIFFIN: I have no difficulty with this amendment. It is consistent with what we have agreed in relation to the principal Act and I see no reason to differ from that opinion.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 8, after line 13—Insert subsection as follows:

(1a) Subsection (1) does not apply in relation to a policy or administrative document that an agency is required by the Freedom of Information Act 1991 to make available for inspection and purchase by members of the public.

This amendment follows discussion with the Local Government Association regarding difficulties with ownership of documents within the local government area. If a document is required to be available for inspection and purchase under the Freedom of Information Act, it will not be necessary for a council also to make the document available.

The Hon. K.T. GRIFFIN: I do not raise any objection to this amendment. If the document is made available under the Freedom of Information Act, that is probably the appropriate legislation to govern its accessibility. The only concern I raise is whether the person applying to the council for access will know that the document is available under the Freedom of Information Act.

The last thing I want to see is someone being shuffled from council to Government agency to gain access to a document. There does not seem to me to be in the Bill any obligation to identify to an applicant asking for access to the document that the application should be made under the Freedom of Information Act for access to it. Will the Attorney-General indicate how he sees this operating where perhaps the first request for information is made by a person to a council, and how this clause will operate in practice?

The Hon. C.J. SUMNER: I do not know how it will operate in practice. It will depend on the local government, and one would hope that they would be sensible about it. They may have a copy of the document that they are prepared to make available or they may say that it is available from X department. This amendment was requested by local government because it did not want to have an obligation to make available a document that was already available under the freedom of information legislation. If the honourable member and the Hon. Mr Elliott have concerns about this amendment, it is no skin off my nose if they decide to oppose it.

The Hon. M.J. ELLIOTT: It has not been a matter that has caused any great concern for me at this stage. It seems that most people are not too perturbed.

The Hon. K.T. GRIFFIN: I appreciate the Attorney-General's information about it. I am not so perturbed about it that I want to oppose the amendment. I raise it as an issue in the development of the procedures that lead up to the legislation coming into operation. It is an issue that I think might need to be addressed and be the subject of further consideration, maybe in the next session, if in fact careful consideration of how that will relate to the practical situation discloses that there is likely to be a problem.

The Hon. C.J. SUMNER: That is satisfactory. It is a good point.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 8, line 19—After 'policy' insert 'or administrative document'.

This is more in the nature of a drafting and clarificatory amendment. Council policies should be set out in their policy or administrative documents. This amendment makes clear that the relevant policy or administrative document must be available for inspection and purchase, not the relevant policy.

The Hon. M.J. ELLIOTT: I move:

Page 8, lines 19 to 21—Leave out paragraph *(a)* and substitute paragraphs as follow:

(a) if the person applied for a copy of the relevant policy or administrative document prior to the person becoming liable to the detriment;

(ab) the relevant policy or administrative document, should have, but was not, made available for inspection and purchase in accordance with this section at the time that the person applied for the document;

(ac) the relevant policy or administrative document was in force at the time that the person became liable to the detriment;.

I agree with the matter just raised by the Attorney-General: it has been picked up in the amendment that I moved. In my discussions with the Local Government Association, this provision was its greatest remaining concern. I do not think that it was delighted with every other amendment or the Bill as it stood, but this provision caused it very grave concern. While this amendment is quite acceptable to me and the Local Government Association in that it requires councils to have all policy and administrative documents available at all times, so that people have full knowledge and can base their decisions on correct information, the problem appears to be that the wording of the section is open to abuse as the timing of liability to a detriment is not made perfectly clear.

A person may make a decision without any requirement to check council's policy, and at a later date when they discover that there is a policy that prevents the implementation of their earlier decision they are liable to a detriment. This problem was raised by the Hon. Jamie Irwin during his second reading contribution, and I believe that he quoted there from advice from Matthew Goode, as I recall, on behalf of a particular council. The amendment I have moved has tried to set up a mechanism whereby it can be quite clear as to the time the detriment occurs. I have given a copy of my amendment to the Local Government Association and it felt that it coped with the concerns that it had. I do not believe that it has changed the functioning so far as what the Government ultimately wants to achieve by the original clause.

The Hon. K.T. GRIFFIN: Certainly the Attorney-General's amendment is appropriate and makes the provision consistent with the Freedom of Information Act. I must say that I am attracted to the amendment moved by the Hon. Mr Elliott. I think it will be difficult, whether under the provision that is in the Bill or under the amendment, to actually get to the point of determining liability to a detriment and what the detriment might be. I think, on balance, that if a person applies for a copy of a relevant policy it becomes liable to a detriment, and the policy was not but should have been made available. That is probably a fair position.

On the other hand—and I guess I am sitting on the fence a bit—if there is a policy and it was just not available publicly then it does not matter whether or not you apply for the document; if you are liable to a detriment and it was not available, then there is a pretty good argument to say why should anybody be liable to a detriment. The provision in the Bill is consistent with the Freedom of Information Act, as I understand it. After consultations with local government and with my colleague, the Hon. Mr Irwin, I indicate that I tend to come down on the side of supporting the Hon. Mr Elliott's amendment because it does have a bit more certainty in it although there is a good argument on the other side in favour of the amendment already in the Bill.

The Hon. C.J. SUMNER: The Government opposes the Hon. Mr Elliott's amendment. I know we will have the argument about consistency raised again, and probably raised later in the debate, but the provision that the Government has in its Bill is the provision that was accepted in the FOI Bill. I do not see that there is any greater burden placed on local government by what is in the Bill at present than what would be imposed on the State Government by virtue of what we passed in the FOI Bill.

It may well be that further work will be involved by councils in the provision that they have suggested and, furthermore, it adds an additional burden to the individual, because the individual will actually need to apply for the policy before the terms of the section become operative.

The Hon. M.J. Elliott: They can't see it unless they apply for it, anyway.

The Hon. C.J. SUMNER: The idea is that the council should have the policies there and available for people to obtain without officially needing to apply, then the council going away, fishing out the policy and bringing it back. The idea is that the policy should be there, available for citizens as they come to the local government body. Given the Hon. Mr Elliott's general approach to freedom of information, I should have thought that that position eases access on behalf of citizens, rather than putting impediments in their way.

What this does is place an impediment in the way of a citizen readily gaining information and, given the Hon. Mr Elliott's general approach to these matters, I should have thought that he would not have wanted to proceed with this amendment, given also that the ready availability of the policy document is now an obligation with which the State Government must comply. I do not see why local government people should be separated in this matter.

The Hon. M.J. ELLIOTT: I do not believe that any impediment is being placed there, and that it is absolutely crystal clear that the documents need to be available. Going in is almost an application in itself, but it is the act of application that crystallises the timing of potential detriment. When do people make particular decisions, and when have they suffered a detriment? It is one thing to have the document there, but what if a person does not front for that document to start off with? There needs to be some way of clarifying that.

I understand the argument about consistency, but it is not unusual for a piece of legislation to go through and suddenly to find that something is wrong with it. What has happened since the FOI Bill went through is that some people have looked at this same clause in the Local Government Bill and said that it still seems to be a potential problem. Perhaps it is one that was not picked up when we were going through the FOI Bill. If that inconsistency occurs, that is only because more time has elapsed and we have picked up something we did not pick up before. That in itself is not an argument against what I propose.

The Attorney-General said that this is making extra work for local government. All I can say is that the LGA says that it wants this provision. I do not see that any major work is involved; the application process can be extremely simple. The document has to be there, so it might simply be a matter of a short note on which you fill out your name and the documents that you took. I do not see any major impediment there.

The Hon. K.T. GRIFFIN: Anyone could guess from my earlier comments that I was ambivalent about the amendments—and, I think, with some justification—because two points of view must be balanced. On the one hand, I can see the argument of councils that they want to particularise the detriment and identify it in relation to a particular person, on the basis that the whole community likely to be affected by this should not get the benefit because they have not bothered to apply. On the other hand, as a matter of—

The Hon. C.J. Sumner: It is ridiculous. It is undermining FOI.

The Hon. K.T. GRIFFIN: On the other hand, one could equally argue, as the Attorney has, why should any governmental body (whether local, State or Federal) benefit from not having had a document available which the law requires to be available? People have suffered detriment, and only those who have bothered to apply gain the benefit of it. I can see a very persuasive argument there, but I just put up another scenario. You may have a local residents' association where one person makes application for a document which is not available but which should be available and, subsequently, all the members of the residents' association suffer a detriment.

The Hon. Mr Elliott's amendment would say that the representative of the residents' association, who made application for the document which was not available, and who suffers a detriment, then has a right, but all other persons who might be members of that residents' association, who were relying upon one person to make the application and not 150 people all making the same application, should be treated differently although, in a sense, their representative made a request for the document.

I can see many instances where that might occur. Residents' associations fluctuate in the level of their activity and focus on differing matters within the community, and are more likely to be affected adversely in relation to local government than in relation to State Government. It is for those sorts of reasons that, having heard the argument and thought about it further, I now indicate my opposition to the amendment.

The Hon. C.J. SUMNER: I am pleased that the Hon. Mr Griffin has acceded to the argument. He put a very persuasive case in opposition to the Hon. Mr Elliott's amendment, which in fact was better than the one I put. I would simply like to endorse entirely what he said.

The Hon. M.J. ELLIOTT: The points made by the Hon. Mr Griffin are perfectly accurate. What has happened is that, as I have attempted to tackle one problem, it has started to create another. But the first problem is not going to go away. The question remains: what is the time at which a detriment has occurred? It is quite possible that the community as a whole will suffer. We know that councils are perhaps more susceptible to pressure from developers, and a couple of million dollars means much more to a council than to a State Government.

There is no way known that I want to do anything to deny information, and that, obviously, is understood. The sort of comment made by the Attorney-General by way of interjection before was ridiculous, and he should have known so. There is still a legitimate question about the time at

which detriment is incurred and, if that is not tackled, it will create difficulties. That is what I attempted to tackle with this amendment. That has consequently produced a second problem, although I do not think that it is beyond the capabilities of Parliamentary Counsel to fix that up, now that those other difficulties have been clarified.

The Hon. C.J. Sumner: We'll do it next year.

The Hon. M.J. ELLIOTT: I believe that we should look at it now, because a council could be caught out between now and then.

The Hon. C.J. Sumner: What about the Government? The Government might be caught out, too. You're not worried about the Government. You're just currying favour with local government.

The Hon. M.J. ELLIOTT: There is another stupid interjection. This Bill is before us now: the other has been passed. We are debating this one.

The Hon. C.J. Sumner: But you agreed with it in the other one.

The Hon. M.J. ELLIOTT: The Attorney-General is quite aware of the comments I made earlier: that the question as to whether or not there were problems about the time when detriment was incurred was a question that was not raised by anyone. Having been brought to our attention, it is something that now deserves our attention—which is exactly what I am doing. The Attorney-General is suggesting that we forget about it and look at it in six months time. It is a problem that has been brought to our attention and is something that should have been able to be fixed relatively easily. I would have hoped that, at the very least, the Hon. Mr Griffin, as he has requested of others on occasion, might support the amendment at this stage, realising that there might be a need for further amendment.

The Hon. K.T. GRIFFIN: I appreciate what the Hon. Mr Elliott is saying. We did not gloss over this in relation to the Freedom of Information Bill, which has now been passed. The issue was addressed at the time and considered, but there was no alternative solution to the problem. I do not know how often it will come up, anyway. Once the Government and the councils are into the routine of complying with the obligations of the respective freedom of information legislation, it seems to me that the detriment is less likely to be a problem. If all policy and administrative documents are available, there is no difficulty. Councils will have the rest of this year to put their administrative affairs in order so that these documents can be available.

The Hon. M.J. Elliott: The problem is not whether they will be available.

The Hon. K.T. GRIFFIN: No, I know it is not. I take the view that there should be some consistency on the principles between local government freedom of information legislation and State Government freedom of information legislation. If there is to be any change, it ought to be a change that is made to both pieces of legislation rather than just to one. It is an issue that I do not deny should have some further consideration, but I do not think it is possible to do that in the two days left of this sitting. I adhere to the view that I have expressed; that is, I will not support the Hon. Mr Elliott's amendment, although I acknowledge that it is a matter that needs to be examined over the next few months.

The Hon. C.J. SUMNER: To conclude this matter, undoubtedly with legislation like this—general State freedom of information legislation or local government freedom of information legislation—it is usual that after a relatively short time of its operation there are teething problems. If this turns out to be one of the areas with problems, I have no doubt that we can address those problems in some amending legislation that will be necessary after a few months, 12 months, or so of the operation of the legislation.

The Hon. M.J. Elliott's amendment negatived; the Hon. C.J. Sumner's amendment carried.

The Hon. C.J. SUMNER: I move:

Page 8, line 39—Leave out 'the council may determine' and insert 'may be prescribed'.

This amendment is consequential on the amendment to section 65az dealing with fees and charges. Under the amendments, the fees and charges payable under the new part will be set out in regulations.

The Hon. K.T. GRIFFIN: I support the amendment. I gather that local government is not particularly happy about it, but it is my view, as it was in the Freedom of Information Bill, that in relation to fees, whether they are chargeable by Government or by a council, ought to be determined by regulation and be subject to review, and that the body that is making documents available should not, at the same time, also be able to fix the fee. This is consistent with the principal Freedom of Information Act, and I support it.

The Hon. M.J. ELLIOTT: I considered that this issue was very important in relation to the Freedom of Information Bill. It was most important that a body that may have an interest in withholding information is not in a position to use fees as a way of denying that information. It is important that there is some form of independent determination of fees, and making such determinations by regulation is the only way of achieving that. It is worth noting that the Local Government Association objected to this—as it objected to several other things that I will be agreeing to—which gives the lie to the Attorney-General's claim about my trying to curry favour with the LGA. I support the amendment.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 9, after line 14—Insert new sections as follow:

Transfer of applications

65wa. (1) A council to which an application has been made may transfer the application to another council if the document to which it relates—

(*a*) is not held by the council but is, to the knowledge of the council, held by the other council;

or

(*b*) is held by the council but is more closely related to the functions of the other council.

(2) A council that transfers an application to another council must, if it holds the document to which the application relates, forward a copy of the document to the other council together with the application.

(3) A council that transfers an application to another council must forthwith cause notice of that fact to be given to the applicant.

(4) Such a notice must specify the day on which, and the council to which, the application was transferred.

(5) A council is not required to include in a notice any matter if its inclusion in the notice would result in the notice being an exempt document.

(6) An application that is transferred from one council to another is to be taken to have been received by the other council.

(*a*) on the day on which it is transferred;

or

(*b*) 14 days after the day on which it was received by the council to which it was originally made,

whichever is the earlier.

Councils may require advance deposits

65wb. (1) If, in the opinion of a council, the cost of dealing with an application is likely to exceed the application fee, the council may request the applicant to pay to it such amount, by way of advance deposit, as the council may determine.

(2) If, in the opinion of a council, the cost of dealing with an application is likely to exceed the sum of the application fee and of any advance deposits paid in respect of the application, the council may request the applicant to pay to it such amount, by way of further advance deposit, as the council may determine.

(3) The aggregate of the application fee and the advance deposit or deposits requested under this section must not exceed the council's estimate of the cost of dealing with the application.

(4) A request for an advance deposit must be accompanied by a notice that sets out the basis on which the amount of the deposit has been calculated.

(5) The amount of an advance deposit requested by council in respect of an application must be paid to the council within such period as the council specifies in the request.

(6) The period between the making of a request under this section and the payment of an advance deposit in accordance with the request is not to be taken into account in calculating the period of 45 days within which the relevant application is to be dealt with.

The first amendment provides for the transfer of applications between councils. A similar provision exists in the Freedom of Information Bill. If a person lodges an application with the wrong council or, alternatively, at a council instead of a controlling authority, the new provision will allow the application to be transferred to the appropriate body.

The second part of this amendment deals with advance deposits and local government wants, consistently the Freedom of Information Act, the power to change an advance deposit.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 9, after line 23—Insert subsections as follow:

(2a) A council may refuse to continue dealing with an application if—

(a) it has requested payment of an advance deposit in relation to the application;

and

(b) payment of the deposit has not been made within the period specified in the request.

(2b) If a council refuses to continue dealing with an application under subsection (2a)—

(a) it must refund to the applicant such part of the advance deposits paid in respect of the application as exceeds the costs incurred by the council in dealing with the application;

and

(b) it may retain the remainder of those deposits.

This amendment is consequential on an earlier amendment. It will allow a council to refuse to continue dealing with an application if an advance deposit has been sought but not paid.

The Hon. K.T. GRIFFIN: I raised no objection to advance deposits provision because it had been retained in the Freedom of Information Act, even though during the course of the debate we had moved successfully to remove it. It was reinstated at a conference of managers.

I still have concerns about the concept of advance deposits, particularly being determined either by the Government agency or, in this case, by the council. However, it is consistent, and there is an argument for advance deposits which we have previously canvassed and which, as it turned out, was successful as a result of the deliberations of the conference of managers. The Opposition does not oppose the amendment.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 10, line 15—After 'usually' insert 'and currently'.

This amendment adopts amendments made previously to the Freedom of Information Act. It makes clear that access to a document may be refused where it is usually and currently available for purchase.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 10, lines 16 and 17—Leave out paragraph *(d)* and substitute paragraph as follows:

(d) if it is a document that—

(i) was not created or collated by the council itself; and

(ii) genuinely forms part of library material held by the council;.

This amendment further defines the material that genuinely forms part of a library. The amendment provides that, if a document is not created or collated by the council and genuinely forms part of library material held by the council, the council may refuse access to it. A similar provision is included in the Freedom of Information Act.

The Hon. K.T. GRIFFIN: I think this originated from the Hon. Mr Elliott in the principal Freedom of Information Act. I indicate support for it. The Hon. Mr Irwin raised with me a matter that I undertook to mention, namely, 'What is the library to which the amendment refers?' Is it in a council's internal library or in some public library which might be under the care, control and responsibility of the council? I suspect that it is the latter. Has the Attorney-General any view on that?

The Hon. C.J. SUMNER: I assume it means a library that is run by the council.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Yes. I suppose not all libraries are publicly accessible. There are libraries in departments and, indeed, in Parliament which are not accessible to the public.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: It was not my amendment; it was the Hon. Mr Elliott's.

The Hon. M.J. ELLIOTT: The question of libraries was in the original Freedom of Information Bill. At that point we were talking about things being genuinely library material and what that means at the end of the day. Was it possible for the Government, at least in that Bill, to create a document and give it protection by putting it in the library and saying that it is genuinely there? That was the reason for including the words 'create and collate'. As regards relevance to this Bill, I think that councils will maintain libraries—not public libraries—of material. For instance, building inspectors, chief executive officers and so on, will have all sorts of material that they hold as a library. So, similar problems potentially exist. It is merely clarification in trying to ascertain what is and is not genuine.

The Hon. C.J. SUMNER: It is a question whether it is genuinely part of a library. If local government or a Government department as a subterfuge is putting documents in libraries so that people cannot get access to them, that is not a viable proposition. It would not genuinely form part of a library. I do not think it is a problem that should cause undue concern.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 10, lines 19 and 20—Leave out 'the commencement of this section' and insert '1 January 1987'.

This amendment is consequential on an earlier amendment dealing with the commencement of the legislation.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 11, after line 4—Insert subsections as follow:

(2) Access to a document to which subsection (1) *(a)* applies may not be deferred beyond the time the document is required by law to be published.

(3) Access to a document to which subsection (1) *(b)* or *(c)* applies may not be deferred for more than a reasonable time after the date of its preparation.

This amendment clarifies the situation when a document may be deferred. It places qualifications on deferral so that it cannot be used as a means of denying access for long periods or indefinitely. A similar provision is included in the freedom of information legislation.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 13, line 2—After 'charge' insert ', having regard to the sum of any advance deposits paid in respect of the application'.

This amendment is consequential on the earlier amendment dealing with advance deposits.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 13, line 26—After 'access' insert 'under this Act'.

This amendment makes clear that the provisions of new section 65ae operate only with respect to requests for access under the Local Government Act. Some concern has been expressed that the provision may restrict the legitimate transfer of information outside the freedom of information provisions. This was not the intent. Therefore, it is desirable that the matter be clarified.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 13, lines 33 to 39—Leave out paragraphs *(a)* and *(b)* and substitute paragraphs as follow:

(a) in the case of an application for access to a document referred to in subsection (1) *(b)*—

(i) the council determines, after having sought the views of the person concerned, that access to the document is to be given and the views of the person concerned are that the document is an exempt document by virtue of section 65g;

or

(ii) after having taken reasonable steps to obtain the views of the person concerned, the council is unable to obtain the views of the person and the council determines that access to the document should be given;

or

(b) in any other case—the council determines, after seeking the views of the Government, council or person concerned, that access to a document to which this section applies is to be given and the views of the Government, council or person concerned are that the document is an exempt document by virtue of a specified provision of subdivision II of Division II,.

This amendment deals with those situations where a council has not been able to contact a person to ascertain whether he or she objects to information regarding details of his or her personal affairs being released. The amendment will require a council to give written notice to a person where a decision has been made to release such information. It is similar to the provision included in the freedom of information legislation.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 14, lines 25 to 30—Leave out subsection (5) and substitute subsection as follows:

(5) A reference in this section to the person concerned is, in the case of a deceased person, a reference to the personal representative of that person or, if there is no personal representative, the closest relative of that person of or above the age of 18 years.

This amendment has a twofold purpose. It deals with consultation regarding the release of information relating to personal affairs. Where the information relates to a deceased person, the personal representative or, if there is no personal representative, the closest relative above the age of 18 years must be consulted. The provision dealing with people under a disability has been removed. Again, this is consistent with the freedom of information legislation.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 17, after line 18—Insert section as follows:

Interpretation

65aan. In this Division—

'local court' means a local court of limited jurisdiction.

This amendment inserts a definition of 'local court' into the Division. The definition is relevant for the purposes of the review provisions in subdivision III. Amendments will be moved to section 65ap to provide for appeals to the local court and section 65as to provide for the local court to consider the status of restricted documents.

The Hon. K.T. GRIFFIN: I should like to raise with the Attorney-General not the substantive question which we have already discussed, but whether he thinks it is desirable to refer to the local court as meaning a local court of limited jurisdiction nearest to the council in relation to access to whose papers an issue arises. It seems to me that that raises the possibility of a person at Mount Gambier having a problem with access to the Mount Gambier council's documents when taking the action in Adelaide or even going over to Port Lincoln. It would seem to be an untenable position for that to occur. Has the Attorney-General given any consideration to that difficulty?

The Hon. C.J. SUMNER: I have not. In fact, this question of the court to which these matters will go in future may be the subject of further debate. There is a proposal, which has not yet been finalised by the Government, to split off the local court from the District Court and, in effect, have a magistrates court with both civil and criminal jurisdiction. Whether it will be the same local court structure as exists at the moment I am not sure. The debate about this matter is a little difficult because, in some respects, if it was all done in the one local court, we would get someone who would build up a body of expertise in it, which was the reason for having all FOI matters dealt with in the District Court.

However, it has been suggested that the District Court is too onerous for individual citizens who are dealing with local government. That is why we have agreed to go to the a local court for adjudication on matters dealing with local government. But, if we do that, we run the risk of getting many people dealing with the issue and do not necessarily build up the expertise in it. I suppose that happens in many areas of the law. One has to rely on magistrates and judges to cope with a broad range of issues.

So, I have no objection if the honourable member wants to move an amendment for it to mean a local court of limited jurisdiction nearest to the council, but one would expect that that would happen anyway, unless there were special reasons otherwise.

The Hon. K.T. GRIFFIN: I take the Attorney-General's point about the broader issue as to whether a body of expertise will be built up, because decisions to be made by a local court can involve questions of public interest, which are not the sorts of matters that are generally dealt with by magistrates. They generally deal with prosecutions in the criminal area and claims up to $20 000. So, it is a matter of concern. Of course, ultimately, if we have a body such as the District Court, I do not share the view that it will be expensive; nor do I share the view that it is necessarily expensive to take matters to the Supreme Court if an issue of principle is involved. However, the issue has been taken about the substantive question about the Local Court *vis-a-vis* the District Court and, subject to the question of appeal that we will address later, I have gone along with the Local Court, but it does have some problems. To clarify that, I move to amend the Attorney-General's amendment as follows:

At the end of the definition of 'local court' add the words 'within or nearest to the area of the council whose determination is the subject of appeal under this division'.

If this amendment is carried, 'local court' will then mean a local court of limited jurisdiction within or nearest to the area of the council whose determination is the subject of appeal under this division.

Amendment to amendment carried; amendment as amended carried.

The Hon. C.J. SUMNER: I move:

Page 17, after line 23—Insert paragraph as follows:
(ab) must be accompanied by such application fee as may be prescribed;

This amendment allows a council to request an application fee to be paid for the purposes of an internal review. The fee would be prescribed by regulations.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 17, after line 34—Insert subsection as follows:
(3a) If on a review the council varies or reverses a determination so that access to a document is to be given (either immediately or subject to deferral), the council must refund any application fee paid in respect of the review.

This amendment provides for the refund of an application fee for internal review where the council varies or reverses a determination so that access to a document is to be given.

The Hon. M.J. ELLIOTT: That is consistent with the Freedom of Information Bill. The Local Government Association wrote to me asking why and the reasons were quite plain to me. If in the final analysis the person is found to have made a reasonable request, which is what the Local Government Association would be saying by reversing its decision, it seems unfair that they should have to pay a second application fee. There is a real risk that councils would try to discourage people if they knew they could charge a second application fee and that people would have to pay it regardless. There is an increased chance of abuse. As a matter of justice, it is unfair that one must pay for the cost of the appeal when that appeal is upheld.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 17, line 36—Leave out '14' and insert '45'.

This amendment extends the period within which an internal review must be conducted. The period is extended from 14 days to 45 days. The review period is longer than that provided in the freedom of information legislation, which remains at 14 days. This is because it is likely that internal reviews will be conducted by a full council. It is necessary to allow a period to enable the matter to be placed on the agenda. I thought originally that the minimum period to allow this to happen should be 35 days, but the Local Government Association has suggested that it should be 45 days. I have acceded to that request, although it is different from the FOI Bill; it is different because of the peculiar circumstances of local government.

The Hon. K.T. GRIFFIN: I support the amendment. The Hon. Mr Irwin had on file an amendment to do just that, for the reasons that the Attorney-General has indicated. This is one of those occasions where I think one does recognise the difference in the way these matters will be handled between a Government agency and local government, and this accommodates that difference, so I am therefore happy to support it.

Amendment carried.

The Hon. K.T. GRIFFIN: It is not intended to proceed with the proposed amendment to new section 65ao (2) *(b)*. Local government was concerned about the Ombudsman being empowered to give a direction and believed that it ought to be a recommendation. I do not share that view. What is proposed in the Bill is consistent with the Freedom of Information Act. I know that there are arguments about the authority of the Ombudsman and whether that power ought to be provided in the Ombudsman Act or in this legislation, but what it ultimately boils down to is that the Ombudsman is an independent person ultimately accountable to the Parliament. The Ombudsman is independent of Government, and is there to undertake a review at as cheap a cost as possible to both the applicant and the council. In those circumstances, I think it is appropriate for the Ombudsman to give a direction as a result of a review rather than merely to make a recommendation that may or may not be acted upon by a council.

The Hon. C.J. SUMNER: I move:

Page 18—
Line 21—Leave out 'District Court' and insert 'local court'.
Line 37—Leave out 'District Court' and insert 'local court'.

These amendments deal with the question of the local court being the appropriate court to deal with issues of freedom of information for local government, and we have already debated this matter.

Amendments carried.

The Hon. C.J. SUMNER: I move:

Page 18, Line 42—Leave out 'chief executive officer of the council' and insert 'Minister'.

This amendment deals with the issue that was debated on the State Freedom of Information Bill in relation to which person should put a view to the court on the question of public interest. The Bill, as drafted, provides that the Chief Executive Officer of the council make known to the court his or her assessment of what the public interest requires. On reflection, the Government does not believe that that is appropriate. After all, the Chief Executive Officer is an unelected official, so I do not think that is appropriate, given the debate that we have had about the rationale for public interest determinations being made by elected officials.

It was finally provided in the Freedom of Information Act that the Minister responsible for the administration of the Act should provide such information to the court. That is an important distinction, because it is not the Minister who is responsible for dealing with the freedom of information application who should put a view as to the public interest to the court but the Minister actually responsible for the overall administration of the Act.

The Government believes that, in principle, someone divorced from the actual day-to-day handling of such applications should put to the court a view on the public interest. Such a provision has been included in the State Freedom of Information Bill and we think that similar provision should be made in the local government Freedom of Information Bill. The Government believes that a Minister is the appropriate person to put that assessment to the court as, first, the Chief Executive Officer of a municipal council is not an elected official, which is regrettable, and, secondly, the Chief Executive Officer is likely to be very much involved in a decision-making process and more likely to be concerned with the—

The Hon. M.J. Elliott: They make all the decisions.

The Hon. C.J. SUMNER: The honourable member might be right—narrow interests of the council rather than its broad public interests. I think it is important that the assessment of the public interest be divorced from the council, in particular, either the Chief Executive Officer or the Mayor, because although the Mayor might be an elected official he or she would not look at a freedom of information application in the broad public interest, which may impinge on other councils as well, but purely from the interests of the particular council that deals with the freedom of information application. I think it is important that such decisions be divorced from councils, and I therefore move this amendment.

The Hon. M.J. ELLIOTT: I support the amendment. I believe that a person making such a decision should be disinterested. I had this problem with the Freedom of Information Act. Although at present only one Minister can make such a decision, I still think it is possible for the Minister to have too much personal interest. In any event, to ask a

Minister who is not intimately involved with local government to make such decisions under this Act would be reasonable and appropriate. Certainly, it would not be appropriate for the Chief Executive Officer to make such decisions nor, for that matter, the Mayor.

The Hon. C.J. SUMNER: Is the honourable member saying that it should be the Minister responsible for freedom of information generally?

The Hon. M.J. ELLIOTT: Yes.

The Hon. C.J. SUMNER: In that case, we will need to amend the Bill because, currently, the Minister referred to in the Bill is the Minister for Local Government Relations. If the honourable member wants the Minister responsible to be the Minister who is responsible for freedom of information, the Bill will have to be amended.

The Hon. M.J. ELLIOTT: If we have a Minister with that sort of responsibility for State Government, it should be the same Minister.

The Hon. C.J. SUMNER: Perhaps we should leave this matter in abeyance so that an amendment may be drafted to make it clear that the Bill refers to the Minister responsible for freedom of information.

The Hon. K.T. GRIFFIN: I do not disagree with what the Attorney-General suggested. What he has put by way of amendment is consistent with the main freedom of information legislation. The amendment that the Hon. Mr Irwin has on file recognises that it is not appropriate for the Chief Executive Officer to make such decisions. If the Bill were to be amended to provide that some other person should make such decisions, the Mayor or the Chairman, who are elected persons, could do that. However, I accept the broader argument that the Minister responsible for freedom of information generally should make these decisions.

That raises one potential difficulty, that is, if a council makes a decision that a document is restricted and should not be made available on the ground of public interest, that view would undoubtedly be presented to the court, but it would also require notice to be given to the Minister responsible for freedom of information that there was, in fact, a matter before the court where this issue was relevant. Perhaps some discussion between the council and the Minister could be held to ensure that there was at least some recognition of the differing points of view, if they existed, and also to ensure that the Minister ultimately was given notice.

The Hon. C.J. Sumner: The Minister is not obliged to put his view to the court.

The Hon. K.T. GRIFFIN: That is right, but it may be that the Minister does not even know about it, I suppose. I guess that can be overcome procedurally rather than spending a lot of time worrying about it here. I just raise the issues. Once the legislation is passed, how it will operate will need to be looked at, particularly where you have one level of government—local councils—making decisions and Ministers actually having the opportunity to appear in courts in relation to public interest questions. I do not want to hold up the Bill to consider that. I think it does need to be the subject of further consideration once the Bill has been passed.

The Hon. C.J. SUMNER: I agree with that and will undertake to do it. I seek leave to amend my amendment as follows:

Delete 'Minister' and substitute 'Minister administering the Freedom of Information Act 1991'.

Leave granted; amendment amended; amendment as amended carried.

The Hon. C.J. SUMNER: I move:

Page 19—
Line 7—Leave out 'District Court' and insert 'local court'.
Line 10—Leave out 'District'.
Line 12—Leave out 'District'.
Line 15—Leave out 'District'.

These amendments are consequential.

Amendments carried.

The Hon. C.J. SUMNER: I move:

Page 19, lines 18 to 20—Leave out subsection (4) and substitute subsection as follows:

(4) After considering any document produced before it, the Court may make a declaration—

(a) if satisfied that there are reasonable grounds for the claim—that the document is a restricted document by virtue of a specified provision of subdivision I of Division II;

(b) if not satisfied that there are reasonable grounds for the claim—that the document is not a restricted document.

This amendment provides for the court to make a declaration that a document is a restricted document, in which case the council certificate continues, or if not satisfied that there are reasonable grounds for the claim, that the document is not a restricted document. The amendment is based on a similar provision in the Freedom of Information Act. It ensures that the factual issue of what is or is not restricted is clarified.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 19, line 21—Leave out 'District'.

This amendment is consequential.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 19, line 29—Leave out '28' and insert '45'.

This amendment will accommodate the position that we have already considered where a council, rather than individuals, will make decisions.

The Hon. C.J. SUMNER: Agreed.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 19, line 33—After 'the' (second occurring) insert 'Minister and the'.

This amendment requires the council on confirming a council certificate to forward a copy to the Minister. The Government considers that there needs to be some external mechanism to ensure that individual councils are not abusing the system of council certificates and restricted documents. It seems to me again that this might be a case where the Minister should be the Minister responsible for administering the Freedom of Information Act. I seek leave to amend my amendment as follows:

Delete 'Minister' and substitute 'Minister administering the Freedom of Information Act 1991'.

Leave granted; amendment amended.

The Hon. K.T. GRIFFIN: I support that.

Amendment as amended carried.

The Hon. K.T. GRIFFIN: I move:

Page 19, line 45—Leave out '28' and insert '45'.

The Hon. C.J. SUMNER: Agreed.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 20, lines 2 to 5—Leave out section 65at and substitute section as follows:

Disciplinary action

65at. Where a local court, at the completion of an appeal under this Part, is of the opinion that there is evidence that a person, being an officer of a council, has been guilty of a breach of duty or of misconduct in the administration of this Part and that the evidence is, in all the circumstances, of sufficient force to justify it in doing so, the court may bring the evidence to the notice of—

(a) if the person is the chief executive officer of a council—that council;

or

(*b*) if the person is an officer of a council but not the chief executive officer of the council—the chief executive officer of that council.

This amendment replaces the current provision dealing with disciplinary action. It provides that, where the court reaches a conclusion that a person has been guilty of a breach of duty or of misconduct and the evidence is of sufficient force to justify it, it may bring the evidence to the notice of the council or the chief executive officer. The new provision is more comprehensive than the original provision in the Bill.

The Hon. K.T. GRIFFIN: I support the amendment.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 20, line 8—Leave out 'the District Court' and insert 'a local court'.

This amendment is consequential.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 20, line 9—Leave out subsection (2).

This is the issue that I addressed in the very early stages—whether the Local Court or the District Court should hear the appeals. If my amendment is carried the section will read as follows:

(1) Subject to the rules of the Supreme Court, an appeal lies against a decision of the Local Court under this Division.

It is important to have a mechanism that means that the decisions of a local court should be the subject of ultimate review. I have put the argument; I am not sure how much I need to repeat. I think that, while a lot of the decisions which the Local Court is reviewing might be relatively minor, there are also matters of considerable importance—not just to people like developers but also to councils, ratepayers and all residents. It seems to me that, if an application for access to information is refused by a council on a matter that might affect the long-term amenities and environment of the community, it may be a matter that is too important for a magistrate to consider, although a magistrate is given that responsibility. That is not to belittle the magistrate; it is to face up to the realities of life. Ultimately, there ought to be an overriding superior court able to finalise a matter both on facts and on law. If we delete subsection (2) of section 65au it will be consistent with the Freedom of Information Act. There is no argument, in my view, for any difference to exist between the two pieces of legislation.

The Hon. C.J. SUMNER: The Government maintains its position, which is that this appeal from the Local Court to the Supreme Court should be only on matters of law. The arguments have been canvassed. It has been put to the Government that if you have a full appeal it will be able to be used by councils to oppress residents and get them involved in expensive legal proceedings.

The Hon. K.T. Griffin: If you don't have a full appeal it is equally open to councils to intimidate citizens.

The Hon. C.J. SUMNER: The Hon. Mr Griffin interjects and says that it is equally open to councils to intimidate citizens by making decisions which the citizens cannot appeal against. One has to accept that that puts the debate clearly, and one also acknowledges that, in the debate on the Freedom of Information Bill, we did agree to there being appeals on both fact and law. I can only say that discussions within Government and with our 'coalition partners' in the Lower House have indicated that this is the preferred position.

The Hon. M.J. ELLIOTT: The whole question of costs, which is the question essentially raised by the Attorney-General, is one that caused me grave concern when we were dealing with the Freedom of Information Bill. If that Bill failed, it failed in a couple of areas. One area is that of giving true access, because of the very real potential that costs can get out of hand. I do not think that we adequately resolved those questions when the Bill was before us. I think that we really ducked the question to some extent, because it was too hard.

I agree with the arguments being put by the Attorney-General. We find ourselves in a position where we have something in contradiction to what we did in the FOI Bill, but if I did not put it on record before I will put it on record now that I was not happy with the FOI Bill in that regard, anyway. Other members of the House would be fully aware of that. Only yesterday I was talking about the capacity of Governments to use costs as a way of denying citizens' rights. Only yesterday I asked a question about the Government taking a person to a higher court, not on questions of law but wanting the whole matter reviewed. In this case, it was the State Government. I am not quite sure that the higher courts give access to justice. In fact, sometimes appeals to higher courts actually deny access to justice and have more to do with a person's monetary power than they do with the rights and wrongs of arguments.

The Hon. K.T. GRIFFIN: First, I indicate that this matter of the ultimate right of appeal is of critical importance. We can argue about costs, and that is a legitimate argument, but it should not prevent us from providing for the ordinary citizen an opportunity to ensure that both the lower courts are accountable but, more particularly, that the citizen has a right to go to the highest courts of the land on matters of principle. It seems to me that the moment you deny an opportunity for a citizen to take a dispute on questions of fact before a magistrate on a matter that may have significant ramifications for the citizen and for the community, you immediately put the Magistrates Court in a position from which it can thumb its nose at the citizen and can make a decision that is contrary to justice.

It seems to me that, in those circumstances, the essential ingredient of our law should be to apply a mechanism to enable that injustice to be rectified. It may be an injustice that occurs as a result of an interpretation of the facts that cannot be substantiated on an independent review. It may have nothing to do with the law. It seems to me that it is not just a citizen but a body of citizens. You may have a residents' association prepared to take the matter to the Supreme Court and, in those circumstances, it seems to me that you are giving an unfair advantage to a council to ensure that a matter does not go ahead, rather than to a citizen to ensure that it does go ahead and is ultimately determined by the highest court in the land.

The Hon. Mr Elliott can make some observations about whether or not you get justice, but no better system has yet been determined that will allow an independent judiciary to make decisions about the rights of a citizen. All I can do is plead with the Hon. Mr Elliott to recognise that there may be cost disadvantages but, equally, it may be that the citizen is significantly disadvantaged in not being able to pursue his or her rights up to a court of appeal, and we ought to be very cautious about giving a Magistrates Court the right to make a decision that can have dramatic consequences for a citizen, where the decision relates to a decision of council.

As I understand what the Attorney-General is saying, the Government has certain advice, but that advice has been reached in conjunction with so-called coalition partners. From what the Attorney-General was saying, I detected that he would not be uncomfortable with a position—

The Hon. C.J. Sumner: I didn't say that.

The Hon. K.T. GRIFFIN: I did not say 'would be comfortable'; I said, 'would not be uncomfortable' with a position that allowed an appeal—

The Hon. C.J. Sumner: I didn't say that.

The Hon. K.T. GRIFFIN: I said that I gained the impression.

The Hon. C.J. Sumner: Then you wrongly gained the impression.

The Hon. K.T. GRIFFIN: Okay, I wrongly gained the impression. But the Attorney-General has to live with it in relation to the principal Freedom of Information Act, and I suggest that it is an essential principle that, if a magistrate is going to make important decisions on public interest; on development or no development; on whether or not there will be a garbage dump established on the backdoor of a group of residents in some suburb; then people ought to have a right to take a matter up to the Supreme Court on appeal, ultimately, so that a body of experienced independent judicial officers can determine the rights of a citizen as opposed to those of a council.

The Hon. M.J. ELLIOTT: This issue is plainly not black and white. Most things are very straightforward, but every argument that the Hon. Mr Griffin put up has a counter argument. It is one thing to talk about the little person having the right to go to the higher court, but the reality is that it is, more often than not, the council that can take on the little person, because of its financial muscle or, perhaps, a very large developer who has the capacity to take the council to higher courts, because of its financial muscle. Anyone who thinks that the legal system in Australia provides justice is kidding himself. It is a highly imperfect system. It provides unequal access to justice, which has more to do with the monetary power of individuals or companies than anything else. It is a very strange form of justice that we have.

There is probably some value in maintaining at least the consistency between the two Acts, while noting that I am not delighted with the system. I think that it has more to do with the way in which fees and other things are charged against people. When we looked at the main Act, I sought to have some system whereby people who are ultimately successful should not have to pay their own costs, nor should they find themselves in a position where, having been put to high costs by litigants, and lost while making legitimate claims, they should be overburdened with costs.

It was an argument that I lost in the debate on the Freedom of Information Bill, and I suppose that that was my greater concern. On reflection, I will be supporting the amendment, mainly just to keep consistency between the two Acts and not because of other strong reasons, because I do not think that there are really strong reasons either way.

The Hon. C.J. SUMNER: The Hon. Mr Griffin's suggestion that I would not be uncomfortable with the amendment as proposed by him is incorrect. I am not comfortable with it, and the Government continues to oppose the amendment. Obviously, we will have to reconsider our position on this topic in the House of Assembly.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 21, lines 9 to 27—Leave out section 65az and substitute section as follows:

Fees and charges

65az. (1) The fees and charges payable under this Part must be fixed by the regulations or in accordance with a scale fixed in the regulations.

(2) the regulations—

(a) must provide for such waiver or remission of fees as may be necessary to ensure that disadvantaged persons are not prevented from exercising rights under this Part by reason of financial hardship;.

This amendment deals with fees and charges. The new provision will require fees and charges to be set out in regulations, rather than being the subject of guidelines. The principles to be observed when prescribing fees and charges are set out in the provision, and are the same as those set out in the freedom of information legislation.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

[*Sitting suspended from 12.53 to 2.15 p.m.*]

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos. 39 to 51.

MEDIA MONITORING SERVICES

39. **The Hon. R.I. LUCAS** asked the Minister of Tourism:

1. What access to media monitoring services was available to the Deputy Premier, Minister of Health, Family and Community Services and the aged and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used:

(a) What was the name of the service?

(b) Were tapes and transcripts available?

(c) Were all radio and television stations monitored?

(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. BARBARA WIESE: The replies are as follows:

1. During 1988-89 and 1989-90 staff had access to television and radio monitoring (tapes and transcripts) and press clipping services (1988-89 only).

2. In 1988-89 the office subscribed to a media monitoring service which provided tapes and transcripts upon request. Total cost was $3 494.

It also subscribed to a press clipping service at a cost of $770.

In 1989-90 the office had access to media monitoring services subscribed to by the South Australian Health Commission and the Department of Family and Community Services. Cost to the Minister's office—Nil.

3. *(a)* Warburton Media Monitoring Press Clipping Service of South Australia.

(b) Yes.

(c) Yes.

(d) Yes.

4. The same as in 1989-90.

40. **The Hon. R.I. LUCAS** asked the Attorney-General, Minister for Crime Prevention and of Corporate Affairs:

1. What access to media monitoring services was available to the Minister and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for the year?

3. If a professional media monitoring service was used:

(a) What was the name of the service?

(b) Were tapes and transcripts available?

(c) Were all radio and T.V. stations monitored?

(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. C.J. SUMNER; The replies are as follows:

1. The Minister's Press Secretary monitors TV, papers and radio. The Attorney also uses the services of Warburton Media Monitoring.

2. The services of Warburton Media Monitoring were used as and when required. Their services included the provision of tapes and transcripts, the cost for 1988-89 was $2 075.50 and for 1989-90 was $12 042.

3. *(a)* Warburton Media Monitoring
(b) Yes.
(c) No.
(d) No.

4. As for 1989-90.

41. **The Hon. R.I. LUCAS** asked the Minister of Tourism:

1. What access to media monitoring services was available to the Minister of Industry, Trade and Technology, Agriculture, Fisheries and Ethnic Affairs and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used:
(a) What was the name of the service?
(b) Were tapes and transcripts available?
(c) Were all radio and television stations monitored?
(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the minister and ministerial staff for 1990-91?

The Hon. BARBARA WIESE: As a preface to the response it should be noted that Hon. Lynn M.F. Arnold has held a range of portfolios during the period in question. These are as follows:

July 1988—Minister of State Development and Technology; Minister of Employment and Further Education.

April 1989—Minister of State Development and Technology; Minister of Agriculture; Minister of Fisheries; Minister of Ethnic Affairs.

November 1989—Minister of Industry, Trade and Technology; Minister of Agriculture; Minister of Fisheries; Minister of Ethnic Affairs.

1. During 1988-89 and 1989-90 Warburton Media Monitoring Service was used on an ad-hoc basis as the need arose.

Also during the 1989-90 financial year the Press Clipping Service of South Australia was retained.

2. Warburton Media Monitoring Service provided copies of tapes and transcripts on demand.

Cost: 1988-89—$1 426.55; 1989-90—$2 865.

The Press Clipping Service of South Australia provides a twice daily press clipping service to the Minister's office via fax machine covering selected major metropolitan, interstate and national papers on nominated subjects relating to the Minister's portfolios.

Cost: 1989-90—$2 950.

3. *(a)* refer 1 above.
(b) refer 2 above.
(c) not unless specified.
(d) not unless specified.

4. As outlined above.

42. **The Hon. R.I. LUCAS** asked the Minister for Local Government Relations:

1. What access to media monitoring services was available to the Minister of Education and Children's Services and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used:
(a) What was the name of the service?
(b) Were tapes and transcripts available?
(c) Were all radio and television stations monitored?
(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. ANNE LEVY: The replies are as follows:

1. Warburton Media Monitoring Services, Press Clipping Service, PressCom newspaper data base.

2. Warburton—Used on an occasional fee for service base on one occasion during 1988-89 at a cost of $64.50, and two occasions during 1989-90 at a cost of $177.

Press Clipping Service—$1 140 in 1988-89 and $665 in 1989-90. Service cancelled January 1990.

PressCom—$134.48 in 1988-89 and $75 in 1989-90.

3. *(a)* Warburton Media Monitoring Services.
(b) Yes, on a fee for service basis.
(c) Yes.
(d) Yes.

4. Warburton, PressCom.

43. **The Hon. R.I. LUCAS** asked the Minister for Local Government Relations:

1. What access to media monitoring services was available to the Minister of Transport, Correctional Services and Finance and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used—
(a) What was the name of the service?
(b) Were tapes and transcripts available?
(c) Were all radio and television stations monitored?
(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. ANNE LEVY: The replies are as follows:

1. The Minister's Press Secretary monitors TV, papers and radio. A subscription with Warburton Media Monitoring has been available since April 1989. The services of Press Clipping Service of South Australia are also used.

2. Warburton Media Monitoring offers the following services to the Minister's office:
—transcripts
—audio tapes
—video tapes

Costs: 1988-89—$540
1989-90—$6 000

Press Clipping Service 1989-90—$900.

3. *(a)* Warburton Media Monitoring.
(b) Yes.
(c) No.
(d) No.

4. As for 1989-90.

44. **The Hon. R.I. LUCAS** asked the Minister of Tourism, Consumer Affairs and Small Business:

1. What access to media monitoring services was available to the Minister and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used—
(a) What was the name of the service?
(b) Were tapes and transcripts available?

(c) Were all radio and television stations monitored?
(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. BARBARA WIESE: The replies are as follows:

1. Press Secretary monitored metropolitan and interstate newspapers. A subscription was paid for monitoring of country South Australian newspapers to the Press Clipping Service of South Australia.

Warburton Media Monitoring was also used for monitoring of television and radio stations.

2. Transcripts and copies of material broadcast in South Australia were available.

1988-89—Warburton	$316
1989-90—Warburton	$9 300
—Press Clipping Service	$300

3. (a) Warburton Media Monitoring Service
Press Clipping Service of South Australia.
(b) Yes.
(c) Yes.
(d) Yes.

4. Same as question 1.

45. **The Hon. R.I. LUCAS** asked the Minister of Tourism:

1. What access to media monitoring services was available to the Minister of Housing and Construction, Public Works and Recreation and Sport and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used:
(a) What was the name of the service?
(b) Were tapes and transcripts available?
(c) Were all radio and television stations monitored?
(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. BARBARA WIESE: The replies are as follows:

1. During 1988-89 and 1989-90, Warburton Media Monitoring services were used by this office on a periodical basis.

2. 1988-89—$464; 1989-90—$2 659.50.

3. (a) Warburton Media Monitoring Services
(b) Yes.
(c) No.
(d) No.

4. As for 1989-90.

46. **The Hon. R.I. LUCAS** asked the Minister for Local Government Relations:

1. What access to media monitoring services was available to the Minister for Environment and Planning, Minister of Water Resources and Lands and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used—
(a) What was the name of the service?
(b) Were tapes and transcripts available?
(c) Were all radio and television stations monitored?
(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. ANNE LEVY: The replies are as follows:

1. Services available to the Minister are:
(a) Monitoring by ministerial office staff;
(b) Monitoring by Government departments and other ministerial offices
(c) Professional media monitoring

2. 1988-89—Monitoring and transcripts—$78; 1989-90—Transcripts, video tapes, audio tapes—$1 791

3. (a) Warburton Media Monitoring
(b) Yes
(c) and (d) Warburton Media Monitoring Service monitors all television and radio stations; however the option lies with the Minister's office whether to utilise this service or not.

4. As for 1989-90.

47. **The Hon. R.I. LUCAS** asked the Attorney-Genereal:

1. What access to media monitoring services was available to the Minister of Emergency Services, Mines and Energy, and Forests and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used—
(a) What was the name of the service?
(b) Were tapes and transcripts available?
(c) Were all radio and television stations monitored?
(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. C.J. SUMNER: The replies are as follows:

1. The Office of the Minister of Emergency Services, Mines and Energy and Forests did not subscribe to any media monitoring service during 1988-89 or 1989-90.

2. No such services were used.

3. (a) Not applicable
(b) Not applicable
(c) Not applicable
(d) Not applicable

4. As for 1.

48. **The Hon. R.I. LUCAS** asked the Attorney-General:

1. What access to media monitoring services was available to the Minister of Labour, Occupational Health and Safety and Minister of Marine and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used—
(a) What was the name of the service?
(b) Were tapes and transcripts available?
(c) Were all radio and television stations monitored?
(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. C.J. SUMNER: The replies are as follows:

1. During 1988-89 and 1989-90 the services of Warburton Media Monitoring Service were used.

2. Transcripts and copies of material broadcast in South Australia were available.

In 1988-89 the cost was $1 862.50.
In 1989-90 the cost was $6 356.

3. (a) Warburton Media Monitoring Service.
(b) Yes.
(c) No. Public radio stations and some regional radio stations are not monitored.
(d) As above.

4. As above.

49. **The Hon. R.I. LUCAS** asked the Minister for Local Government Relations, Minister for the Arts and Cultural Heritage and Minister of State Services:

1. What access to media monitoring services was available to the Minister and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used—

(a) What was the name of the service?

(b) Were tapes and transcripts available?

(c) Were all radio and television stations monitored?

(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. ANNE LEVY: The replies are as follows:

1. Media monitoring services were not used by the Minister of Local Government, Arts and State Services during 1988-89. In 1989-90 the electronic media was monitored by Warburton Media Monitoring and when required, transcripts obtained.

2. Transcripts—1988-90—$2 725.

3. *(a)* Warburton Media Monitoring.

(b) Transcripts only.

(c) Yes.

(d) Yes.

4. As for 1989-90.

50. **The Hon. R.I. LUCAS** asked the Minister for Local Government Relations:

1. What access to media monitoring services was available to the Minister of Employment and Further Education, Youth Affairs, Aboriginal Affairs and Minister Assisting the Minister of Ethnic affairs and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Minister and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used—

(a) What was the name of the service?

(b) Were tapes and transcripts available?

(c) Were all radio and television stations monitored?

(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Minister and ministerial staff for 1990-91?

The Hon. ANNE LEVY: The replies are as follows:

1. 1988-89—Nil.

1989-90—Press Clipping Service.

2. The Press Clipping Service provides daily a copy of the stories from the major newspapers and regional on matters relating to the Minister's portfolios. A weekly consolidation is also provided.

Cost: $220 per month.

3. *(a)* Press Clipping Service—South Australia.

(b) No.

(c) No.

(d) No.

4. As above.

51. **The Hon. R.I. LUCAS** asked the Attorney-General:

1. What access to media monitoring services was available to the Premier and ministerial staff during 1988-89 and 1989-90?

2. What were the specific details of the service available to the Premier and ministerial staff and what was the cost of each service for each year?

3. If a professional media monitoring service was used—

(a) What was the name of the service?

(b) Were tapes and transcripts available?

(c) Were all radio and television stations monitored?

(d) Were all radio talkback programs monitored?

4. What access to media monitoring services is available to the Premier and ministerial staff for 1990-91?

The Hon. C.J. SUMNER: The replies are as follows:

1. The Department of the Premier and Cabinet retained the services of a media monitoring company during 1988-89 and 1989-90 with individual items available on request to all divisions of the department and the ministerial office. The PressCom system through the *Advertiser* was also used by the Premier's office.

2. For the 1988-89 year the department requested the media monitoring company to advise, by telephone, of items about specified topics. Individual transcripts or tapes were then ordered. In 1989-90 the media monitoring company supplied a summary (usually one page) of items under various topics specified by this department (for example, immigration and the MFP). Copies of the summary sheets were circulated to the relevant divisions and the ministerial office. Transcripts or tapes of individual items were requested through the State Promotion Adviser's office. The cost for media monitoring on behalf of the ministerial office was $810.50 in 1988-89 and $3 258 in 1989-90. The cost for PressCom in 1988-89—$800.25 and in 1989-90—$805.75.

3. *(a)* Warburton Media Monitoring.

(b) Tapes and transcripts were available on an individual request basis.

(c) No, except on specific topics at the request of the department.

(d) No, except on specific topics at the request of the department.

4. As for 1989-90.

QUESTIONS

VIDEO GAMING MACHINES

The Hon. K.T. GRIFFIN: My questions are to the Attorney-General, as Leader of the Government in the Council, on the subject of video gaming machines, as follows. In view of the Government's indication that video gaming machines or coin-operated gambling machines will be operating in licensed clubs and hotels by the end of this year:

1. Will there be any licensing procedure pursuant to which a hotel or club will have to be approved before machines can be installed and, if so, who will be the licensing authority and what will be the minimum standards to be met?

2. What procedures, if any, will be followed in the evaluation of machines, what Government surveillance and inspection of premises and machines will be put into place and whose responsibility will it be?

3. Does the Government propose to charge any licensing fee to operators and, if so, what fee?

4. Considering that up to 10 000 machines may be required in South Australia if the Government's plan goes ahead, what procedures will be followed in determining which premises will get the machines first, and is there not a potential for corruption in that process because of the financial attractiveness of having the machines installed first?

The Hon. C.J. SUMNER: I cannot answer those questions. The debate on video gaming machines in clubs and hotels came about as a result of a motion moved in another place by the Hon. Mr Griffin's colleague, Mr Stan Evans and the House of Assembly expressed a view on it, and included in that was an expression of view from the Premier. This issue still has to go through the parliamentary legislative process of both Houses of Parliament, and a conscience vote will apply to all individuals in relation to it. So, the issues raised by the honourable member are still to be determined, and will not be determined until such

time as the legislation has passed or perhaps at the time it is passed. I suggest that the honourable member await any substantive Bill on this topic.

LIBRARY SERVICES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about library services.

Leave granted.

The Hon. DIANA LAIDLAW: I have been advised that late last month, but one month after originally anticipated, the Libraries Board submitted to the Minister its formal response to the SALIS report on the development of a South Australian library and information service. The report proposed wide-ranging restructuring of library services in South Australia, although members may recall that at the time of its release the proposals were rather overshadowed by the public outcry about the presentation and style of the report.

While the board has been contemplating its response to the SALIS report, and the Minister in turn is now considering the board's response, a number of people in the libraries area have told me that the libraries generally feel that there is increasing agitation that such crucial matters affecting the future of libraries are proceeding at a time when the State Library is without a Director.

I would note, for instance, that the draft report by the Libraries Board to the SALIS report dated 9 January certainly differed in a number of respects from the SALIS report's recommendations for the future of the State Library Services. The fact that the board is actively involved in these negotiations and that the Minister may soon be making a decision on these matters is causing some agitation while the State Library is without a director. I therefore ask the Minister:

1. As interviews for the position of Director have been concluded, when will the successful applicant for this most senior position at the State Library be announced?

2. Since the original deadline of 1 March proposed in the SALIS report as the date for the conclusion of all formal implementation arrangements has now long passed, is the Minister prepared to defer her decision on the future of the new library service until there has been an opportunity for the board and the Minister to consult and liaise with the new director and, if not, why not?

The Hon. ANNE LEVY: I am afraid the honourable member's sources of information have let her down. I have not received any report from the Libraries Board with respect to the future of the library, so it is not a question of my considering it. I have not received it. I know that the Libraries Board has been considering a draft of a report to me, but I understand that the board has not approved the final report yet or, if it has, it certainly has not reached me. I am sure the honourable member will be aware that there has been consultation between the Libraries Board and the Adelaide City Council; that the city council set up a working party into the question of an Adelaide City Council library and the relationship that it would have with the State Library; and that the Adelaide City Council is to consider the reports from its working parties in 10 days or so.

The interviews for the new Director of the State Library were being held this week. I do not know when a final decision will be made; it is not for me to make it. However, as the interviews have been held, I expect the decision will soon be made. Obviously, the new Director will be concerned with discussions with the Libraries Board, but I reiterate: I have not yet received any report from the Libraries Board.

The Hon. DIANA LAIDLAW: As a supplementary question, although I am loath to dob in the Chairman of the Libraries Board, my advice did come from that source that the board had concluded the report and that it was on the way to the Minister. I therefore ask the Minister: will she ascertain the status of the report and is she prepared for this issue, in terms of the Libraries Board's response, to linger on, recognising that the original SALIS report timetable indicated that all implementation arrangements would be concluded by 1 March?

The Hon. ANNE LEVY: I can only reiterate: I have not received a final report from the Libraries Board. I am quite prepared to admit that anything that may have arrived at my office yesterday would not yet have crossed my desk, given that I was here until 1 a.m. today and have not had a chance to go to my office today, in view of Executive Council and other meetings and then the Council's sitting this morning.

Certainly, I have not seen any report from the Libraries Board. I agree that the original date for implementation was 1 March, which was the day on which the Department of Local Government ceased to exist. However, on that day, the State Library became a division of the Department of Arts and Cultural Heritage. I assure members that as soon as I receive the report I will give it the close consideration that it deserves and I hope that it will be acted on soon after.

HOMESTART

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Tourism, representing the Minister of Housing and Construction, a question about HomeStart.

Leave granted.

The Hon. L.H. DAVIS: I have received correspondence from a person in the country regarding a problem with a HomeStart loan that was approved in September 1990. Because of the breakdown of this person's marriage and particularly distressing consequences associated with it, she decided, quite justifiably in my view in the circumstances, to attempt to sell the house in December 1990, some months later.

At that time the HomeStart loan was for $89 000. The figure is now $92 000, higher than the expected value of the house. The nearest offer for this house that this person has received is $90 000. As she says, that is not enough to cover the HomeStart debt, let alone to pay the agent's fee, which could be in excess of $4 000. This person has been advised that the prospects of selling the house are decreasing the longer it is on the market. She rang HomeStart expressing concern about her situation and quoting an extract from an *Advertiser* article of 14 March 1991.

The Hon. R.J. Ritson: After the election promises.

The Hon. L.H. DAVIS: Yes, it was some time after the election promises. Mr Gary Storkey, the General Manager of HomeStart, is quoted in this article as saying:

> If anybody's loan balance was greater than the realisable value of their house at sale, then we would pick up the difference provided they had properly maintained their house and they were not in arrears with their payments.

This lady claims that she and a relative have spoken to HomeStart and that they were told that this particular statement is not true. She is concerned because the statement applies to her and she is faced with the situation where her HomeStart loan is several thousand dollars greater than the

value of the house, which is currently on the market. My question is simple: is it correct that HomeStart will pick up the difference between any balance outstanding on a HomeStart loan and the amount realised on the selling price for a house that is subject to a HomeStart loan?

The Hon. BARBARA WIESE: I will refer the honourable member's question to my colleague in another place and bring back a reply.

PORT ADELAIDE MANGROVES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about insect spraying in the Port Adelaide mangroves.

Leave granted.

The Hon. M.J. ELLIOTT: Recently I have become aware of increasing concerns about the activities of Government departments involved in insect control in the area of the Port Adelaide mangroves and adjacent swamps. This area has already been reported as being highly polluted, something that the Government has acknowledged in its documents on the proposed MFP project. I had discussions with some professional fishers who reported to me discussions that they had had with officers of the Department of Engineering and Water Supply. They had posed the question: When the MFP puts more citizens closer to the mangrove areas, will not those citizens start complaining about the number of insects, which will need to be sprayed? The response from an Engineering and Water Supply Department officer was, 'We already do.' The importance to the fishing industry of the mangroves and the areas adjacent to the Port River as a fish breeding ground has been stressed publicly over and over again, and quite recently by SAFIC itself.

There are fears that treating for insects could rob fish of a food source and introduce another pollutant to the water which could have detrimental effects. There are also the wider environmental concerns of deliberate marine water pollution and the effects of that pollution beyond the immediate environment of the Port River and adjacent swamps.

I understand, of course, that insects are unpleasant to human activity and, in some situations, dangerous, but they are also an important link in the ecological food chain. My questions are:

1. What practices are currently used by Government departments to control insects in the Port Adelaide mangroves area and adjacent swamps?
2. How long have those practices been in place?
3. What substances are being used?
4. What studies have been done into the possible effects of the treatments on the immediate marine environment, particularly fish and the mangroves?
5. How is the Government planning to address the discomfort factor of insects should the MFP project go ahead on the site adjacent to the mangroves?
6. Will the Minister ask the Minister of Fisheries whether or not he is aware of such allegations and what his opinion is on the matter?

The Hon. ANNE LEVY: The honourable member said that this was a question for the Minister for the Arts and Cultural Heritage. I can assure him that the Department of the Arts and Cultural Heritage has not been undertaking any insect spraying in the Port Adelaide mangroves. However, I will refer that question to my colleague, the Minister for Environment and Planning in another place, as it certainly comes under her portfolio, and bring back a reply.

OYSTER INDUSTRY

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Fisheries, a question about the oyster industry.

Leave granted.

The Hon. PETER DUNN: I refer to the rising anxiety within the South Australian oyster growing industry about proposed State Government charges which, if they proceed, will stillbirth a fledgling aquaculture industry that has tremendous economic potential. Presently in South Australia, local consumers annually eat their way through between $10 and $15 million worth of oysters. But, because local oyster growers produce only about $2 million worth of that demand, most of our oysters have to be imported from interstate.

To meet this large unmet local demand, a small band of South Australians want to develop oyster farms in this State. However, it is not a cheap industry to invest in. In fact, it can cost around $25 000 a hectare to get an oyster farm up and running. Most holdings must be of the order of 10 hectares to be viable. So, a person wanting to gamble on establishing an oyster farm has to have some collateral because it can easily cost up to $250 000 even before they begin producing a single oyster.

I understand that the Government plans to impose a range of charges on oyster growers that could see them paying to Government and its agencies charges of up to $1 800 in the first year, around $6 000 in the second year and more than $13 000 in subsequent years. Such charges would have a devastating effect on oyster growers wanting to invest in farms, and would stifle many small businesses before they even got going.

To put it in perspective, Tasmanian oyster growers, for example, pay Government charges of $980 a year for a 10-hectare farm; in New South Wales the charge is $150 for a 10-hectare farm; yet, as I have already said, South Australian Government agencies look likely to reap annual charges of around $6 000 for the same size property.

Some of the proposed Government charges are simply ludicrous. For example, I understand that the Department of Environment and Planning is looking at imposing a $200 annual impost on oyster farmers for protecting point-source pollution. Besides that, from the fourth year onwards, oyster farmers could be forced to pay an environmental monitoring charge of 3 per cent of gross income. These imposts, in the name of preventing point-source pollution, are totally unfair. Everyone knows that oyster farming has to be very clean. Pollution is anathema to oyster farmers: if they allow any pollution, the oysters die.

My colleague in another place, the member for Eyre, raised the matter of excessive charges on oysters this time last year. At the time the Minister of Fisheries said he would obtain a detailed report on the issue. When it eventually arrived it was a typical Sir Humphrey answer that said virtually nothing; it said that the department was continuing discussions with the industry and relevant organisations with the aim of minimising costs to the developing industry. Despite this assurance, 12 months later we find the industry is still no wiser and is faced with proposed costs that it will find impossible to bear. My questions are:

1. Will the Minister confirm that the proposed annual charges for oyster growers of the order I have outlined are correct? If not, what will the respective Government charges be?
2. If the charges that I have outlined are correct, will the Minister concede that they have the potential to destroy yet another area of small business; and, therefore, will he order

an immediate review of such charges so that they bear some relationship to charges applying to interstate oyster growers?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

FOREIGN INVESTMENT AND OWNERSHIP

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in this Chamber, a question about foreign ownership.

Leave granted.

The Hon. I. GILFILLAN: Currently there exists in Australia only one authority charged with the task of examining foreign investment and ownership in this country. I refer to the Foreign Investment Review Board, established in 1976 and operated through the Federal Treasury. Unfortunately, that board acts in an advisory capacity only, and decisions to allow foreign investment throughout Australia rest, for all intents and purposes, with the Federal Treasurer.

Here in South Australia there is no State authority to carry out foreign investment review and, as such, the people of this State have very little idea of just who owns what. Up until 1988 any purchase of rural property in Australia worth in excess of $600 000 was subject to review by the Foreign Investment Review Board, although in virtually every case it was a mere formality and automatically approved by the Federal Treasurer. However, the Federal Government chose to exempt from review rural property purchases up to $3 million in value; so now, in 1989-90, more than 20 rural properties bought in Australia by foreign investors, worth more than $3 million, all were automatically approved by the board. In South Australia during that period only one property sold was in excess of the $3 million mark and, therefore, subject to review. However, there were many more purchases of land that were far less than $3 million and therefore not subject to review.

With the advent of the rural crisis and the dramatic fall in land values it is certain that a majority of rural land sales in South Australia will fall below the $3 million cut-off mark and will, therefore, not be subject to review. Hard times will see more overseas buyers coming into the market to scoop up cheap deals which no South Australians will have the money to purchase, and South Australians will not know who owns the farm.

It is worth noting at this point that the largest current investor in this country is the United Kingdom, with more than $45 billion tied up, followed by the United States with more than $40 billion. All of South-East Asia and Japan combined account for less than $40 billion while, surprisingly, Switzerland is the fourth largest, followed by Germany. The issue of foreign ownership is of great concern to an overwhelming number of South Australians. On Saturday 9 February, the day of the referendum, the Democrats conducted a public opinion survey outside many of the voting booths. One of the questions asked of more than 1 300 respondents was: would you support the establishment of a public list of foreign investment and ownership in South Australia? Almost 73 per cent of those questioned answered 'Yes', with less than 18 per cent opposed. There is little doubt, therefore, that the people of this State want to know who owns what and who is buying what in South Australia. My questions to the Attorney are as follows:

1. Can the Attorney inform the Council of the extent of foreign ownership, including farms, that exists in South Australia?

2. Does he agree the foreign ownership issue is important to South Australians?

3. Will the Government give an undertaking to establish a register of foreign ownership in South Australia and, if not, why not?

The Hon. C.J. SUMNER: I do not believe that the Government has any proposals to act in this area. The question of foreign investment is clearly a matter for the Federal Government and I do not see that there is any case for the State Government to get involved in it. However, I will refer the honourable member's question to the appropriate Minister, in case he wishes to add anything to what I have said.

The Hon. I. GILFILLAN: As a supplementary question, will the Attorney say whether or not he believes that South Australians are concerned about foreign ownership in this State?

The Hon. C.J. SUMNER: It is possible that South Australians are concerned about foreign ownership, but a feature of the development of Australia since colonisation has been foreign ownership and investment in this country in one form or another. Concerns have been raised about it and some of them are legitimate. That is why there is a Foreign Investment Review Board.

LOCAL GOVERNMENT GRANTS

The Hon. J.C IRWIN: I seek leave to make a brief explanation before asking the Minister for Local Government Relations a question about grants to local government.

Leave granted.

The Hon. J.C. IRWIN: On 14 March I asked the Minister a question about press reports that appeared in the *Australian* and *Age* newspapers referring to the methodology to be used by the Commonwealth Grants Commission for the distribution of local government grants to the States. On 4 April the Minister gave a considered answer and pointed out in relation to South Australia that any one of four options giving four different amounts could be adopted by the Premiers Conference in May. A table shows what could happen in relation to the other States. Only two of these options would give a real dollar increase in grants to South Australian Grants Commission for distribution to local government in this State. In answer the Minister said:

> The current arrangement for determining the overall level of general purpose grants for local government for 1991-92 is to escalate the 1990-91 grant at the same rate as general purpose payments to the States.

In today's *Advertiser* a report quotes the Premier's comments to the Australian Finance Conference in Adelaide, at which I believe he spoke last night. The report states:

> He [the Premier] urged the Federal Government to adhere to its three-year funding deal agreed at last year's Premiers Conference despite 'fine print' in the agreement. The Federal Government agreed to maintain general revenue grants in real terms until 1993-94 unless Australia experienced a 'major deterioration' in its economic circumstances.

It is obvious from the comments of the Premier and the Minister that it is expected that grants to South Australian councils will escalate at the same rate as general purpose grants payments to the State.

We will also have to assume that if all the 'fine print'—as alluded to by the Premier—is read, and if a major economic deterioration is used by the Federal Government to cut general purpose grants to the State, grants for distribution to this State's local councils will also fall by that same degree. Does the Minister have any information from the recent Local Government Ministers conference, or any other source, that the State will get at least nothing less than

last year's grants allocation? Even though the Premier will go into bat for a new methodology, does the Minister expect that, if the Commonwealth Government uses the 'fine print' of economic deterioration, the quantum of Commonwealth grants to the States will fall by the same percentage as the general purpose grants given to State Governments?

The Hon. ANNE LEVY: The quantum for local government grants was not discussed, other than fleetingly, at the recent Local Government Ministers conference. It was made quite clear that no decisions have yet been made by the Commonwealth on the total quantum. I am sure that no-one outside the Federal Treasury would at this stage know what the total quantum will be. The discussion at the Local Government Ministers conference centred entirely on the distribution of that pool between the States and the method by which it should be distributed.

I point out that the Grants Commission has not suggested four options for the distribution of the local government pool between the States for the coming financial year; it has suggested three. It calculated the complementary relativities but recommended against their being implemented *in toto* in this coming financial year. It gave three options, two of which involved a phasing in of the complementary relativities, indicating that it felt that further work needed to be done before arriving at complementary relativities with which it would be satisfied.

I do not agree with the Hon. Mr Irwin that the three options are irrelevant as far as South Australia is concerned. Even the lowest benefit to South Australia would be a 5 per cent increase on last year's grant. I would take this as being a 5 per cent real increase on top of any other increase which may result from inflation allowance. The figures published by the Grants Commission clearly show that it has done its calculations on the totals which applied in the 1990-91 financial year and do not in any way allow for changes which would result in the total pool due to correction for inflation. It has merely worked on the sum available in the 1990-91 financial year. Even an increase as low as 5 per cent in real terms would, I am sure, be extremely welcome by local government in this State. I remind honourable members that this can arise only if there is adoption of the principle of equalisation between as well as within States. We already know that the Hon. Mr Irwin finds the principle of equalisation an impediment and presumably does not wish it to occur.

ACADEMICALLY GIFTED AND TALENTED STUDENTS

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education a question on the subject of academically gifted and talented students.

Leave granted.

The Hon. R.I. LUCAS: For some years there has been much criticism of the Education Department's failure to recognise and provide for the special education needs of our academically gifted and talented children. In fact, I have received a number of submissions in recent months calling for a change in the Bannon Government's policy in this area in particular. There is concern by these groups that the department is not providing sufficient support for those schools which are seeking to help the academically gifted and talented students in our schools. My questions to the Minister are:

1. What support does the Education Department provide to academically gifted and talented students in our schools?

2. Does the Education Department have a superintendent or some other officer with specific responsibility for academically gifted and talented students? If so, how much of that person's time is spent on work in this area, and what sort of work does the officer undertake?

3. Does the Education Department's corporate plan refer to highly gifted and talented students, and will the Minister define the department's understanding of that term?

4. Does the Education Department support schools giving public recognition of academic excellence by way of prizes and awards for years 8 to 11?

5. Does the Education Department encourage schools to allow acceleration of students through year levels where appropriate?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply.

SELECT COMMITTEES

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking you, Mr President, a question relating to the procedures and sittings of select committees.

Leave granted.

The Hon. I. GILFILLAN: On the morning of 6 April an article appeared in the *Advertiser* relating to a select committee dealing with the Marineland inquiry. The heading was, 'Marineland inquiry stalls again'. The first paragraph of that article states:

> Former State Bank Director, Mr Rod Hartley, was kept waiting in a Parliament House corridor for an hour yesterday because of a parliamentary select committee bungle.

Further on it states:

> But the hearing was delayed for an hour and then cancelled by the committee Chairwoman, Ms Levy, because a committee member, Australian Democrats leader, Mr Gilfillan, had not arrived.

Even further on it states:

> It was the third failed attempt to hear evidence from Mr Hartley who, as Executive Director of the former Trade and Development Department, was closely involved with the Marineland project. He was clearly annoyed yesterday but would not comment.

I think it is significant that I have been given a copy of a letter that Mr Hartley has written relating to that article, and it is appropriate that part of it should be put to the Council as a reflection possibly on the accuracy of this article. He states:

> I note that the committee have asked you to pass on their apologies for the cancellation, and this is appreciated. However, I would like the committee to understand that reports that I was 'demonstrably angry' are without foundation, as you would have observed personally.

I do not intend to dwell on that, but it puts in question the accuracy of the reports of certain matters in the press.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: My questions, which are related to the implication that the select committee was cancelled because of my absence, are:

1. Can a select committee proceed if all members are not present?

2. Can a select committee proceed if a quorum is present?

3. Does the Chair of a select committee have the power to cancel a meeting on his or her authority?

4. What, if any, particular authority rests with the Chair of a select committee?

The PRESIDENT: I would say, in relation to the first question, that provided the necessary quorum is present the meeting could and should go on. If the Chairperson should be absent, I understand that Standing Orders provide that a new Chairperson shall be elected in that Chairperson's

absence and, as long as a quorum is present, the meeting could proceed. As to whether the Chair has any authority to cancel a meeting, I would say that the Chair would be subject to the majority decision of the committee. Failure of the committee to disagree with that Chairperson's ruling would indicate agreement with the decision. Lastly, I would say that the Chairperson's role would be to observe Standing Orders and the proper conduct of the meeting.

JUDICIAL INDEPENDENCE

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of the independence of the judiciary.

Leave granted.

The Hon. J.C. BURDETT: The Australian Bar Association recently made a statement on this subject dated March 1991. On page 2, paragraph 2.6, it states:

> Power in contemporary Australian society resides increasingly with the Executive arm of government. Parliament, for all its strengths in other areas, does not consistently control, but rather is often controlled by, the Executive.

Paragraph 2.7 states:

> In these circumstances, it is inevitable that the Executive will from time to time exceed its lawful authority unless checked by an independent body the decisions of which are binding. The judiciary is the only instrument equipped to act as guardian of the public interest in this field; and there appears to be almost unanimous community acceptance not merely of that proposition, but also of its corollary: that only a judiciary independent of the Executive will be able effectively to ensure that Executive power is exercised lawfully. In these circumstances, it is not surprising that the rhetoric of politics commonly includes expressions of support for an independent judiciary.

The latter part of paragraph 2.8 states:

> It is a matter of extreme regret that some do not even appreciate the crucial role of the judiciary in the maintenance of the democratic system which it is their duty to uphold and without which their own liberties as politicians, public servants and citizens would disappear. The result is a piecemeal, insidious, and very dangerous atrophy of judicial independence.

On page 3, paragraph 3.7 states:

> State judges are generally much more exposed in relation to tenure than their Federal counterparts. For example, it is within the competence of a State Parliament (except perhaps that of New South Wales) to pass legislation by which a judge is deemed to have retired. In other words, the Parliaments of the States other than New South Wales are legally empowered to remove a judge at pleasure [and a case is cited]. They need not proceed to effect a removal by the device or forwarding an address, passed by each House to the Governor—although, of course, such a course is open to them. And even here it is only convention which limits such an address to proved misbehaviour or incapacity. A Parliament, not being bound by convention, might forward an address seeking the removal of a judge simply because he or she had, for example, ordered the production of Government documents to a private litigant opposed to the Government.

On page 5, paragraph 4 headed 'Reform', is a matter which has been raised and which is obviously within the hands of Governments and Parliaments. Paragraph 4 states:

> 4.1 Removal from Office
>
> 4.1.1 Machinery appropriate to deal with judicial misbehaviour should be put in place forthwith by suitably entrenched legislation; and judges should not be removable except on the proper operation of that machinery.
>
> 4.1.2 Allegations (which have been appropriately vetted) of such serious behaviour as would, if proved, warrant the removal of a judge should be placed before a special tribunal the membership of which is not subject to political manipulation: an appropriate scheme would include a tribunal, brought into existence only as occasion requires, consisting of not less than three judges or retired judges of superior Federal, State or Territory courts selected according to predetermined procedures established by statute. In short, the appropriate machinery and the principles upon which it operates, should not be left to *ad hoc* arrangements.
>
> 4.1.3 It may be that, after proper investigation, the special tribunal or commission will not find that the case for dismissal has been made out. If so, the matter should go no further. If, on the other hand, it were found that an allegation concerning the ability or behaviour of a judicial officer is substantiated and could justify removal, then that finding should be laid before both Houses of Parliament. On the address of both Houses, the Governor-General or Governor (according to the circumstances) may remove the judge concerned.

My question, having regard to the fact that the independence of the judiciary is a basic bastion of our freedom is: will the honourable Attorney examine the statement—the parts I have mentioned and other parts, because some parts are within the power of a State Government and a State Parliament—with a view to recommending changes in the law in South Australia, if appropriate, in order to support the views put by the Australian Bar Association?

The Hon. C.J. SUMNER: The independence of the judiciary is not an issue; I believe that it has not been an issue in this State since an allegation was made by a judge that the then Attorney-General, Mr Duncan and the then Premier, Mr Dunstan, had interfered with the exercise of his judicial functions. Once a royal commission had been set up to examine those matters, the judge withdrew the allegation; he was Judge Andrew Wilson, of the Children's Court. I do not know of any other circumstances in which judicial independence has been called into question in this State. I do not necessarily agree with the Australian Bar Association that increasing power resides with the Executive arm of Government. Parliament still has a very important role and will indeed have a more important role when I introduce a Bill shortly to expand and improve the committee system of Parliament.

So, I think that the question of power of the Executive, *vis-a-vis* the Parliament, is sometimes exaggerated and one has only to get a Parliament that is not dominated by one Party, particularly where a coalition is in power or where the Government is relying on the support of Independents, to indicate that some of the more extreme statements about the power of the Executive *vis-a-vis* the Parliament are not justified. I certainly agree, however, that whatever the power of the Executive and whether or not it is increasing, the judiciary has an important role in ensuring that the Executive does not exceed its lawful authority.

I do not necessarily believe that the judiciary is the best guardian of the public interest, because in my view, as I have put here previously, the public interest is best determined in a democracy by elected members of Parliament, if the democracy is functioning properly. However, I do say that the judiciary has an important role in protecting the public interest to the extent that the judiciary should ensure that the Executive acts only within its lawful authority, and to ensure an independent judiciary is an essential part of our democratic structure. I note what the honourable member has said about the suggestions made by the Australian Bar Association about the removal of judges. Frankly, I do not share the concerns of that association about it: the removal of judges in this State, except in the last century, has not been an issue.

I think that the situation where the removal of a judge has to be done publicly in the Parliament is a reasonable safeguard in any event against any encroachments on the independence of the judiciary. I recall that when we had the debate in this Council about the possible removal of the then Ombudsman (Mary Beasley), I set out in the Parliament what I thought was an appropriate procedure for the Parliament to follow if it was to consider removing a statutory officer such as the Ombudsman or indeed a judge.

It would be incumbent upon the Parliament to carry out some inquiry to see whether or not dismissal or removal of the judge was a justified course of action, just as I suggested to the Parliament when the Beasley matter was before us that a certain procedure ought to be followed. At that time, that was not the view of the Opposition because it was hell-bent on getting rid of Ms Beasley at the first available opportunity without going through the appropriate procedures. That matter was, of course, resolved but, as I recollect, at that time I outlined to the Council the procedures that should be followed.

I do not believe that the community would permit a judge to be dismissed or removed by the Parliament just by a motion being passed through both Houses of Parliament without an inquiry into the causes. I am not as pessimistic about the situation as the Australian Bar Association. As far as I am concerned, it has not been a problem. I think that the principles relating to judicial independence are sufficiently entrenched in our constitutional structure to mean that, if such a situation arose, the Parliament would deal with the matter in a sensible and responsible manner and, if it did not, that the community concern about it would be expressed in a very forceful way. I am happy to examine the paper prepared by the Australian Bar Association, but, frankly, at this stage I do not see that we have a situation that requires any change to the current constitutional structure.

PERSONAL EXPLANATION: MARINELAND SELECT COMMITTEE

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I seek leave to make a personal explanation.

Leave granted.

The Hon. ANNE LEVY: I make this explanation following a question to you, Mr President, by the Hon. Mr Gilfillan regarding the cancellation of the meeting of the select committee on Marineland that occurred on 6 April after the committee had waited not for an hour but for three-quarters of an hour for the Hon. Mr Gilfillan to attend.

I indicate to you, Mr President, and to all members of the Council, that I am quite familiar with the Standing Orders relating to select committees, as I am sure all members of this Council and you, Mr President, are familiar with them and with the rules about quorums. At this meeting of the select committee a formal quorum was present.

Discussion took place as to whether or not we should wait for the Hon. Mr Gilfillan, but it was agreed by the other members who were present that the witness who was waiting to give evidence was a key witness in the matters being considered by the committee and that it would not be appropriate for evidence to be taken with a member of the committee absent. Although a transcript of evidence is always provided, it was agreed that all members of the committee should hear the witness and have the opportunity to question him, particularly in relation to the nature of the key evidence that we expected him to give to the committee.

After waiting for three-quarters of an hour, I suggested that it was impolite and embarrassing to keep a witness waiting for such a long time. So, by agreement of all members present, the meeting was cancelled. Of course, it was I who formally cancelled the meeting as Chair of the select committee in the same way as it is you, Mr President, who formally suspends or adjourns the Council. That is the function of the presiding officer of any meeting of this Council or of a select committee, but I stress that it was by agreement of all members of the committee who were present that it was impolite to keep the witness waiting any longer, particularly as we had no indication of when the Hon. Mr Gilfillan might be expected to attend.

The Hon. T.G. Roberts: Didn't he even ring you up?

The Hon. ANNE LEVY: We had received a message that the Hon. Mr Gilfillan would be late but we had no indication of how late he would be and we felt that after three-quarters of an hour it was not courteous to keep the witness waiting any longer as we had no notion of when the Hon. Mr Gilfillan might arrive.

At the suggestion of all members of the select committee, the Secretary has written to Mr Hartley apologising for the waste of his time which that three-quarters of an hour must have caused him. I understand from both Mr Hartley and members of the committee that we hope to be able to get together soon so that Mr Hartley can present the key evidence which the select committee hopes to hear from him.

COMMISSION CHAIRMAN

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Ethnic Affairs, a question about the vacant position of Chairman of the South Australian Multicultural and Ethnic Affairs Commission.

Leave granted.

The Hon. J.F. STEFANI: In 1989, the Government introduced amendments to the South Australian Multicultural and Ethnic Affairs Commission Act 1980. One of the most relevant changes created by the amendments was the downgrading of the Chairman's position which, under the current legislation, no longer requires the employment of a person to chair the commission on a full-time basis.

I understand that the period of appointment of the present Chairman is due to expire at the end of June this year and that he is not seeking reappointment. Some members of the ethnic community have expressed concern that the Government will appoint a person to chair the commission on a part-time basis only. Will the Minister indicate the Government's intentions regarding this appointment and will the Government ensure broad community consultation before making the appointment to this important position?

The Hon. C.J. SUMNER: I assume that consultation will occur. Obviously, when the present Chairman resigns another chairman will have to be appointed to the commission. I cannot say anything further than that; the honourable member will have to wait until the appointment is made.

REPLIES TO QUESTIONS

The Hon. C.J. SUMNER: I seek leave to have the following answers to questions inserted in *Hansard.*

Leave granted.

MULTIFUNCTION POLIS

In reply to **Hon. I. GILFILLAN** (17 October).

The Hon. C.J. SUMNER: The Premier has provided the following response to the honourable member's question:

1. The Government has no intentions of planning extensions to Adelaide Airport to accommodate increased traffic through the MFP.

2. The map used in the MFP-Adelaide proposals (various versions) was drawn in 1982. It showed three runways at

Adelaide Airport because the area of the Adelaide Airport is sufficient to include a third runway. Whilst there is area available for a third runway it has not been constructed and there are no plans to construct it as a consequence of the MFP.

3. Documents distributed to prospective overseas investors may include the map referred to above but no indications are being given to anyone that a third runway is planned or likely to be constructed in the near future.

4. No runway extensions are planned in the context of the MFP and normal consultative procedures would be initiated if any such plans were activated.

UNEMPLOYMENT

In reply to **Hon. L.H. DAVIS** (6 March).

The Hon. C.J. SUMNER: The Minister of Employment and Further Education has provided the following response to the honourable member's question.

Job vacancies, as recorded by the ANZ Bank in its employment advertisement series, have fallen significantly in South Australia in the past year in line with national trends as the national economy has moved into recession. However, job vacancies have not fallen to the same extent in South Australia as they have in some other States in the past year. Vacancies have declined more quickly in Victoria, Western Australia, and New South Wales, falling by 61.9 per cent, 51.3 per cent and 50.2 per cent respectively in these States in the year to February 1991.

That is, to date the State economy has been relatively resilient, reflecting the improvement in South Australia's economic health since 1982 under the management of this Government.

Nevertheless, the national economic downturn is likely to impact adversely on employment levels in South Australia until well into 1991.

The extent to which the recorded unemployment rate (the generally accepted indicator of the state of the labour market) will rise as employment falls will depend largely on whether the labour force participation rate trends downwards in response to the weakening labour market (the participation rate has to this date remained extremely high).

However, despite the deterioration in the State labour market over recent months, it remains in significantly better shape than when the first Bannon Government came into power in November 1982. Between November 1982 and February 1991, 104 100 jobs were created in South Australia (seasonally adjusted). Over the period, full-time employment rose by 59 300 (13.3 per cent) whilst part-time employment rose by 45 100 (40.1 per cent).

Despite having risen significantly over 1990, the unemployment rate recorded in February 1991 (8.9 per cent, seasonally adjusted) remains below that recorded in November 1982 (of 9.4 per cent). The labour force has grown strongly over the period (from 616 000 in November 1982 to 727 900 in February 1991, a rise of 111 200 or 18.2 per cent, seasonally adjusted), and the participation rate is currently at near record levels (63.4 per cent) indicating continued confidence in the labour market.

FEDERAL ECONOMIC STATEMENT

In reply to **Hon. M.J. ELLIOTT** (14 March).

The Hon. C.J. SUMNER: The Premier has provided the following response to the honourable member's question:

Trade liberalisation in Australia is proceeding hand in hand with reforms to the anti-dumping system. As a consequence the environment for dumping in Australia will be tougher and involve heavier penalties. These measures should help reduce the incidence of dumping in Australia and it is, therefore, unlikely that South Australian industry would become more vulnerable to dumping with the removal of tariff barriers. Regardless of this the South Australian Government will continue to do all it can within its powers to resist unfair competition from the suspected dumping of imports.

HARBOURSIDE QUAY

In reply to **Hon. J.C. IRWIN** (14 February).

The Hon. C.J. SUMNER: The Premier has provided the following response to the honourable member's question:

Settlement for the purchase of the Port Adelaide council land at Harbourside Quay is to take place when the formalities for a road closure have been completed and the Crown Solicitor's Office has approved the form and substance of documentation.

The purchase of the council land is to be funded by SAFA on the basis that the interim finance and interest will be recouped following the sale of the Harbourside Quay site to a developer.

The Hon. BARBARA WIESE: I seek leave to have the following answers to questions inserted in *Hansard.*

Leave granted.

CREDIT CARD THEFT

In reply to **Hon. J.C. BURDETT** (13 February).

The Hon. BARBARA WIESE: In reply to the question asked in the Legislative Council by the Hon. J.C. Burdett on 13 February 1991 regarding credit card thefts, I advise the following:

1. According to the Fraud Squad and the Office of Fair Trading there is no evidence to suggest that there is an organised gang of thieves stealing credit cards in South Australia.

2. All lending institutions that issue credit cards have conditions of use applicable to the credit card holder which usually stipulate the amount of liability applicable to the card holder in the event of a credit card being stolen.

3. The Commissioner for Consumer Affairs has considered this matter and is of the opinion that further publicity about this matter is not warranted in view of the advice given by the police as part of their community education programs that people provide adequate security over credit cards. In addition, there is the tendency for publicity on these activities to lead to a greater incidence of it.

MERZ HOUSING COOPERATIVE

In reply to **Hon. L.H. DAVIS** (11 December).

The Hon. BARBARA WIESE: In response to the honourable member's question, the Minister of Housing and Construction has advised that:

1. Currently the Housing Cooperatives Program is being administered by the South Australian Housing Trust which has guidelines with respect to new construction, including properties built for tenant-managed housing cooperatives. The Housing Trust assesses each project on its merits and

grants approval at concept estimate and final tender stages. The Housing Cooperatives Program encourages tenants to have input into the design process wherever possible. The program must be flexible enough to take into account the individual needs of prospective tenants. The Housing Trust provides guidelines with regard to the size, average price/square metre, and general preferred building standards of a project using the guidelines. A project will only proceed if cost estimates are within budget and all necessary approvals are obtained.

2. An allocation of $16 301.81 has been expended which comprises architectural, engineering, surveying and other fees for the purposes of providing costing estimates for the proposed project. If the project does not proceed the above expenditure will be absorbed by the program and the ongoing viability of the MERZ Cooperative will be reviewed. If the project does proceed the MERZ Housing Cooperative would have to repay the amount of the grant as part of its overall allocation.

HOMESTART

In reply to **Hon. L.H. DAVIS** (9 April).

The Hon. BARBARA WIESE: The following is provided in response to the honourable member's question.

When the HomeStart Loan was launched in September 1989, the response by the public to the program was enormous. As a consequence, HomeStart introduced a registration of interest procedure which established a waiting list in order to release customers into the market.

As the building industry was being affected in late 1989 by a slow-down, due to interest rate escalation, HomeStart offered applicants an immediate referral if they proposed to build their home rather than buy. In other words, the customers choosing to build sat their wait time out whilst their house was being constructed.

As a consequence, the building industry has experienced high levels of activity in 1990-91 to date, and together with the purchase program, HomeStart became a significant lender in South Australia.

In January 1991, it appeared that HomeStart finance would exceed its 1990-91 budget allocation of $316 million and steps were taken to slow down the level of loans being approved.

Part of these steps were to delay the application process of building customers from one or two days to four to six weeks.. This delay will remain in place until late June 1991 when the financial years allocation is completed. Any delays in 1991-92 will be decided later in the year after an assessment of demand can be determined at that time.

RABBITS

In reply to **Hon. PETER DUNN** (13 December).

The Hon. BARBARA WIESE: In response to the honourable member's question, the Minister of Agriculture has provided the following:

1. A total of $149 423 is available during the 1990-91 financial year. State funds provide about 60 per cent, that is,$90 235. The Australian Meat and Livestock Research and Development Corporation is providing $39 188 (26 per cent) and the Northern Territory Conservation Commission, $20 0000 (13 per cent). The salaries and on-costs of the three people involved in the project are included in these figures.

The Department of Agriculture also has cosiderable financial input into the running costs of the Quarantine Insectary at Northfield where the Spanish rabbit fleas are currently held.

2. Reviews of research into rabbit control are currently being conducted on several levels. First, the Animal and Plan Control Commission is addressing the specific needs with respect to the control of rabbits in arid South Australia. Secondly, the Bureau of Rural Resources is examining the whole area of research into feral animal control from a national perspective and finally the Australian Wool Corporation recently conducted a workshop to examine priorities for rabbit research and control in relation to the wool industry.

From these reviews a plan for future research strategies will be developed, including coordination of research with other organisations and research into forms of biological control other than myxomatosis. In the light of this review, additional resources and funds will be considered where appropriate.

3. Under the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986 the responsibility for rabbit control rests with the owner/occupier of the land.

However, as the honourable member has noted, normal rabbit control measures such as ripping and fumigation are not economically feasible in the vast northern areas. It is therefore not always possible to insist that rabbit control should be carried out on pastoral leases or Aboriginal lands.

State Aboriginal Affairs has advised that through the land management program of Anangu Pitjantjatjara, a rabbit eradication program is in place. The program is a joint venture between Anangu Pitjantjatjara, National Parks and Wildlife Service and the Bureau of Rural Resources.

4. Both of these Acts were repealed in 1987 and were replaced by the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986.

The responsibility for the control of rabbits on the Pitjantjatjara land lies with the owners/occupiers of the land as explained in the response to question 3.

SOUTH AUSTRALIAN HOUSING TRUST

In reply to **Hon. BERNICE PFITZNER** (21 February).

The Hon. BARBARA WIESE: The following has been provided by the Minister of Housing and Construction in response to the honourable member's questions:

1. The Commonwealth Government has made funds available for Deposit Assistance Programs this financial year. These funds will be applied to provide first home owners assistance to prospective purchasers of Housing Trust properties who signed Intention to Purchase forms prior to 22 August 1990 and received letter of offer after that date.

2. Following the announcement that the First Home Owner's Scheme would be terminated, an investigation determined that approximately 140 potential purchasers of Housing Trust properties were immediately disadvantaged by the abolition.

3. Consideration is being given to the most effective application of the available funding after 30 June 1991.

HEALTH DEVELOPMENT AUSTRALIA

In reply to **Hon. BERNICE PFITZNER** (13 February).

The Hon. BARBARA WIESE: In response to the honourable member's questions, the Premier has advised:

1. HDF and SGIC are presently negotiating to cease their involvement in HDA as joint venturers. HDA will become the responsibility of SGIC under the revised arrangements.

2. Yes. All the programs developed by HDF/HDA including the quality control aspects of those programs, will remain with HDA and become a key component of the licensed/franchised network of centres.

3. The conditions relating to the HDA licensed/franchised network of centres are currently being finalised with selected owners of existing privately operated centres. The objective of the network is to establish consumer confidence in the participating centres in respect of both quality and stability.

ROXBY DOWNS PETROL PRICES

In reply to **Hon. R.R. ROBERTS** (12 March).

The Hon. BARBARA WIESE: In response to the honourable member's questions, I advise:

The Commonwealth Government's Prices Surveillance Authority fixes the maximum endorsed price which oil companies may charge to resellers. The price of petrol at the retail level has not been fixed in South Australia since 1976.

Investigations by officers of the Department of Public and Consumer Affairs indicate on information supplied by the two BP service station proprietors at Roxby Downs and Olympic Dam that over-charging is not occurring.

They are both small volume sites not receiving oil company rebates and discounts that generally apply to metropolitan area dealers.

The overheads at the locations are extremely high and are inflated by extenuating circumstances such as the necessity to provide housing and other accommodation for staff.

RURAL SUPPORT

In reply to **Hon. M.J. ELLIOTT** (8 April).

The Hon. BARBARA WIESE: The following has been provided by the Minister of Agriculture in response to the honourable member's questions.

1. The Government has given the UF&S an undertaking that it will respond to its proposal by mid April.

2. Without prejudging its response to the UF&S proposal, the Government has been active in encouraging the Commonwealth to reconsider its decision against a Guaranteed Minimum Price for wheat. Its activities in this regard have been reported in the media.

3. The Government continues to have discussion with the Commonwealth on the rural crisis, including substantial input into a package of rural assistance measures to be announced by the Minister for Primary Industries this month.

The Hon. ANNE LEVY: I seek leave to have inserted in *Hansard* without my reading them the following replies to questions.

Leave granted.

ROAD SAFETY

In reply to **Hon. L.H. DAVIS** (20 February).

The Hon. ANNE LEVY: The Department of Road Transport has been paying close attention to any road safety implications that may result from the economic recession. The honourable member has raised several areas of concern. First, the practice of blocking off brakes is not uncommon for commercial vehicles with air brake systems. It is carried out en route in the event of a failure which requires isolation for the system. Such faults are usually repaired upon reaching home base. However, the Random On Site Audit Team (ROSAT) has rarely found air brakes blocked off. Such a procedure results in time and cost which is normally greater than the repair.

Secondly, given the size of the new and second-hand spare parts market, the practice of repairing vehicle components with second-hand spare parts is not unusual and is not considered an unacceptable practice. Thirdly, the removal of pollution control equipment on cars manufactured after 1972 does take place within the automotive industry even though it contravenes the Road Traffic Act and regulations. On modern engines the equipment adversely affects fuel economy and engine performance. However, vehicles presented for inspection at the department's Vehicle Engineering Section, Regency Park must have emission control equipment fitted and operational. The Vehicle Engineering Section, ROSAT and traffic police have observed no notable reduction in vehicle roadworthiness at present. However, the situation will continue to be monitored.

TANDANYA

In reply to **Hon. DIANA LAIDLAW** (4 April).

The Hon. ANNE LEVY: Further to the information provided to the honourable member on 4 April 1991, I advise that Mr Tregilgas has been paid at the rate of $1 956.80 per fortnight, and has been on extended sick leave and recreation leave. Accordingly, he will not be returning to Tandanya prior to the expiration of his contract on 2 May 1991. The total amount which will have been paid to him for the period 1 February to 2 May 1991 will be approximately $13 500, including leave loading. The Crown Solicitor has advised that to terminate the contract would have been difficult, and in the circumstances more expensive than paying out the contract.

FAIR TRADING (MISCELLANEOUS) AMENDMENT BILL

The Hon. BARBARA WIESE (Minister of Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Fair Trading Act 1987. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

The Bill introduces a variety of amendments to the Fair Trading Act 1987. The purposes of such amendments are to preserve uniformity with the Commonwealth Trade Practices Act and fair trading legislation in other States and other general purposes relevant to the Office of Fair Trading. The Fair Trading Act was proclaimed in 1987 and since that date has been under the administration of the Commissioner for Consumer Affairs. In her administration of the Act, the commissioner has become aware of certain difficulties in respect of that legislation which now require amendment.

The proposed amendment to section 22 concerns provisions on door-to-door trading. The present section 22 only allows cooling-off where offences have been committed against that section of the Act. The proposed amendments widen the scope of cooling-off to allow cooling-off in the

cases of non-compliance, including procedural non-compliance, which may not be regarded as technical offences under the relevant legislation but still compromise the consumer's position sufficently that the consumer may wish to cool off.

It is proposed that recent changes to the Western Australian Fair Trading Act be used as a model for these amendments in keeping with the uniform legislation of South Australia, Western Australia and Tasmania. At the meeting of Consumer Affairs Ministers (SCOCAM) in July 1989 it was agreed by Ministers that door-to-door legislation be amended to provide consumers with the rights now expressed in this Bill.

It is proposed to repeal section 39 of the Fair Trading Act. Section 39 is intended to prohibit the practices of offering goods for sale only on condition that other goods are first purchased. However, the commissioner may give approval to this practice on the application of the trader. Of applications made to Commissioner for Consumer Affairs, only one has ever been refused in circumstances which were entirely unique to its case. As a precaution, the commissioner proposes to monitor the effect of the repeal of section 39 once that section has been deleted.

Section 58 of the Fair Trading Act incorporates the provisions of section 53 of the Trade Practices Act (Commonwealth) but applies the duties and obligations therein to persons rather than to corporations. Section 58 of the State legislation is intended to complement the Commonwealth provisions. In 1988, sections 53 *(a)* and 53 *(aa)* of the Commonwealth Act were amended to include the word 'value' after the word 'quality'. This effectively prohibited a corporation from falsely representing that goods and services had a particular value which they did not have. It is now proposed to bring the Fair Trading Act in line with the Trade Practices Act so that these protections may also extend to consumers who are not corporations.

The final amendment affects section 81 of the Fair Trading Act. Section 81 allows the commissioner or a person authorised by the commissioner to institute proceedings for breaches of assurances given under the Fair Trading Act. The proposed section 81 allows proceedings to be commenced on the authorisation of the commissioner and thereby removes the administratively inconvenient situation of requiring either the signature of the commissioner or a particular authorised person before important proceedings can be instituted. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 amends section 22 of the Act which deals with a consumer's right to rescind a contract in specified circumstances.

Paragraph *(b)* of subsection (1) is substituted. The effect of the new paragraph is that any contravention of or failure to comply with the provisions controlling door-to-door trading practices (Part III Division III) in the course of or in relation to the negotiations leading to the formation of the contract results in the consumer having a right to rescind the contract within six months of the date of the contract. At present such a right arises only if an offence against those provisions has been committed by a supplier or dealer.

Paragraph *(b)* of subsection (2) is also substituted. The current paragraph provides a consumer with a right to rescind a prescribed contract (defined in section 16 as a contract in respect of which the total consideration is not ascertainable or is above a prescribed limit) within six months of the date of the contracts if there has been failure to comply with section 17 (1) which contains various requirements relating to the form of the contract. The new paragraph extends this right to where there has been contravention of, or failure to comply with, section 18—a provision that prohibits a supplier or dealer accepting any money or consideration, or providing any services, before the expiration of the cooling-off period.

Clause 3 repeals section 39 of the Act which prohibits conditional sales of goods or supply of services.

Clause 4 amends section 58 of the Act which prohibits false or misleading representations in connection with the supply of goods or services. The amendment extends the prohibition to representations relating to the value of goods or services.

Clause 5 amends section 81 of the Act which makes it an offence for a trader to act contrary to an assurance accepted by the commissioner. The right to prosecute such an offence is currently limited to the commissioner or a person authorised by the commissioner. The amendment requires the commencement of proceeding for an offence against the section (rather than the prosecution) to be authorised by the commissioner.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

PARLIAMENTARY COMMITTEES BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the establishment of various Parliamentary committees; to define the functions, powers and duties of those committees; to repeal the Public Accounts Committee Act 1972 and the Public Works Standing Committee Act 1927; to amend the Constitution Act 1934, the Industries Development Act 1941, the Parliamentary Remuneration Act 1990, the Planning Act 1982 and the Subordinate Legislation Act 1978; and for other purposes. Read a first time.

The Hon. C.J. SUMNER: I move:

That this Bill be now read a second time.

This long awaited Bill completely overhauls and reforms the existing system of parliamentary committees in South Australia. The increasing diversity of our community and the increasing pace of change place an obligation on Governments to make complex decisions. It is important that all the decisions of Government, no matter how complex and irrespective of size and consequence, are able to be put under scrutiny. In a democratic society with a system of Government responsible to Parliament, that scrutiny to a considerable extent is carried out by Parliament. These proposals will enhance that process.

This Government has had a policy of access to information—a fact testified to by the recent passage of the Freedom of Information Bill through the Parliament and the earlier introduction on an administrative basis of access to personal records as part of the Government's privacy principles. Much of what the Government has done over the last decade has been subject to parliamentary scrutiny—and much of that scrutiny has taken place in parliamentary committees.

However, the existing committee system is antiquated and it imposes constraints both on the Parliament as a whole and on the roles of individual members of Parliament. The business of Government at the end of the twentieth century should continue to be accessible to the people:

they should be able to influence and examine what their governments do on their behalf, both directly and through their parliamentary representatives.

The changes proposed in this Bill acknowledge the complexity of a modern urban industrialised community and of the right of citizens to hold their elected representatives to account for the decisions and for their actions. It is a sign of the health of a democracy that open debate is encouraged.

Members on both sides of the council have long acknowledged the need for change to the parliamentary committee system. There have been many attempts at reform including select committees and private members' Bills. Some have tackled the system as a whole, others have tried to modify and expand what already exists. The policy of the Australian Labor Party announced at the 1982 election contained a commitment to reform Parliament.

In a document which I released in October 1982, which also contained commitments to disclose the pecuniary interests of Members of Parliament, to revive a Freedom of Information Working Party and to improve access to the law for ordinary Australians, there was a commitment to parliamentary reform. The 1982 policy statement said this:

> Parliament should be made a more effective instrument for discussion and debate on community issues and for scrutiny of Government actions. The reputation of politicians is low because people are fed up with political bickering and the point scoring which occurs in Parliament. Mechanisms should be developed to assist the promotion of agreement and consensus on issues which are not of great political controversy.

Unfortunately the actions of the Parliament in recent years have not always enhanced its role in the community, particularly when privilege has been used as a vehicle to attempt to destroy people's reputations. However, the sentiments remain valid and this Bill should make Parliament a better forum for the debate of community issues and scrutiny of Government actions.

In 1983 I moved in this place for the establishment of a Joint Select Committee on the Law, Practice and Procedures of the Parliament which had a specific reference to undertake:

> A review and expansion of the committee system including in particular—
> (i) the establishment of a standing committee of the Legislative Council on law reform;
> (ii) the desirability of a separate committee to review the functions of statutory authorities; and
> (iii) the method of dealing with budget estimates including the desirability of a permanent Estimates Committee.
>
> With regard to paragraphs (ii) and (iii), the committee should consider the role and relationship of the Public Accounts Committee in the context of these proposals.

A discussion paper was prepared for the committee, which met on a number of occasions, but I regret to say that the Liberal Opposition in the House of Assembly did not respond to any of the paper's recommendations and the work of the select committee lapsed following the 1985 election. That a new system was needed then and is needed now is attested to not just by the various private members' Bills seeking to expand and/or alter the terms of reference of the existing committees, but also by the increasing number of select committees being established both in this House and in the other place.

More recently, the member for Elizabeth (Martyn Evans) has played an important role in reviving discussions about the system which it is now proposed to introduce, and I acknowledge his significant contribution in the development of the Bill. Mr Evans has always taken an interest in the role of Parliament—as a forum for policy debate and as the body best able to act on behalf of the community by scrutinising legislation, Government actions and Government decisions.

This Bill abolishes the Public Accounts Committee, the Standing Committee on Public Works and the Subordinate Legislation Committee and replaces them with four new committees which ensure that the full range of activities undertaken in South Australia can come under parliamentary review.

The Bill provides through a single statutory instrument the basis for members of Parliament to scrutinise Government activity, community and policy issues and other matters of importance to the people of South Australia. The establishment of a streamlined and revitalised review process, which involves members of Parliament in the processes of Government and in significant community issues, as well as encouraging discussion and communication between diverse interest groups across the State, is a significant step in maintaining and reinforcing the principles of parliamentary democracy.

An efficient and effective committee system will increase public contact, awareness and respect for the process of democracy and allow the development of a review process which establishes links and promotes discussion across disciplines and professions, between regions, between parliamentarians and those who elect them, and between public and private sectors.

There are many issues in the community which are both difficult and hard to resolve. There are issues about which there are genuine differences of opinion and conscience. There are issues about efficiency and the appropriateness of Government operations. A comprehensive committee system should provide the opportunity for many of these issues to get a hearing.

The committee system proposed in this Bill will allow for full public debate on all the important issues facing South Australians. It will in no way undermine the authority of the Parliament, but will enhance it. It will not become an alternative to Parliament, as the committees are committees of the Parliament and are required to report to it.

It will not become an alternative to Government as there is not and should not be any requirement for Government to submit each and every decision to a committee for approval. Committees which are set up purely for the political purpose of harassing Government and making Government more difficult do not enhance decision making. A responsible committee can however assist the decision making process and good Government. In the words of Mr Justice Kirby, a former Chairman of the Australian Law Reform Commission:

> Public and expert disillusionment with the Parliament is a serious disease which we should seek to check. The other branches of Government (the Cabinet, judiciary, etc.) are the elite elements in our form of Government... Only the Parliament, with its diversity of members, grafts on to our system the variety of talent and views which partly reflect the mass of the people. Unless we are to give up the notion of democratic Government as nothing more than a triennial vote for the people, we should all be concerned to arrest the declining fortunes of the institution which reflects our diverse democracy.

This Bill gives effect to those sentiments. As Professor Emy has said (*The Politics of Australian Democracy*, 1983, p. 407):

> The case for committees rests on the general premise that the House as a whole is no longer an appropriate body to carry out the legislative functions of scrutiny and investigation. The House should develop more refined instruments for these purposes. It should also provide greater job satisfaction for the backbencher, utilise those talents which are at present frustrated by parliamentary ritual, and offer parliamentarians a more positive chance to contribute to policy discussions, both before the Government is publicly committed to a course of action, and prior to the purely symbolic exchange of views in Parliament.

The Government accepts that case. I am particularly pleased as Attorney-General to be introducing reforms which I and the Australian Labour Party have had as policy objectives for many years. It has taken a long time and involved many discussions. I thank those who have been involved. I hope that in the period between now and the next session, members on both sides will seriously consider the new structure and be prepared to support the Bill when it is reintroduced.

This Bill will be reintroduced early in the budget session. Discussions will be held with officers of the Parliament about the working of the new system but, now that the proposed system is set out in a Bill before the House, it will enable member's comments to be more specific. The Government is firmly committed to it.

The Bill establishes four new committees. They are:

- The Economic and Finance Committee
- The Environment and Resources Committee
- The Legislative Review Committee
- The Social Development Committee

These four committees will be able to scrutinise the full range of Government responsibility and community activity. They will be able to examine and report on virtually any matter affecting the State either of their own motion or by references given to them by Parliament or by the Governor in Executive Council. In particular, I would like to draw members' attention to a number of important changes that have been made which may affect them.

First, public works: There will no longer be any obligation for capital expenditure to receive the additional approval of what was the Parliamentary Public Works Committee. The passage of the budget will be deemed to be sufficient approval. However, public works can still be subject to scrutiny through the proposals in this Bill.

Members will note that Government operations are allocated to one or other of the new committees. Any public work of any value can be examined by a relevant committee in one of three ways. First, through a reference from the Parliament; secondly, through a reference from the Governor in Executive Council—effectively on the initiative of a Minister and Cabinet; and, thirdly, by the committee on its own motion. This system is seen as more open, more flexible and in line with the role of each committee developing expertise in a particular area. It will also allow a greater degree of discretion.

Secondly, industries development: The Industries Development Committee will be constituted from the members of the Economic and Finance Committee and will operate in the same way as it does at the moment, namely with two Government members, two Opposition members and a Treasury officer. It will report to the Treasurer and the decision making procedures are the same as at present.

The Economic and Finance Committee is the revised form of the Public Accounts Committee and will have seven members. It is the only committee which will not be a joint House committee. It will not be necessary for the same four members of the Economic and Finance Committee to examine references under the Industries Development Act. That can vary, although the numerical composition of the Industries Development Committee remains the same.

The role and function of the Industries Development Committee have been retained (albeit within the new structure) as an important and valuable means of determining the wisdom or otherwise of using State resources for particular State development purposes. The committee has been linked through common membership to the Economic and Finance Committee because of that committee's role in the scrutiny of public finances.

State finances are the most critical element of Government administration. Whether the focus is actual Government operation, statutory authorities, or the regulation of economic and financial activity, this expanded committee represents the Government's commitment, first, to the importance of getting the fundamentals right and, secondly, to ensuring that good quality debate can emerge in the Parliament as a result of the reports and reviews undertaken by members in the House of Assembly.

Thirdly, a new Social Development Committee has been established to cover the variety of human and community services that are provided by and through Government and which have increasingly been brought to the attention of Parliament through private members' motions and select committees. This committee has a wide ranging charter and the members who serve on it can look forward to some stimulating debate. Fourthly, the Legislative Review Committee is expanded from the very constrained confines of the old Subordinate Legislation Committee. It will now have a role in examining legal and constitutional reform issues and the very wide ranging reference to examine the administration of justice, an issue on which there is considerable community debate as well as substantial Government investment.

Finally, the Environment and Resources Committee, freed now from the obligations of examining all public works, will be able to concentrate its attention on the larger debates about land degradation and reafforestation, about air and water quality, about urban development and redevelopment and so on. It is an exciting new step and one which will lead to an interdisciplinary approach to the environment and resource management. Once a report has been completed, it is to be laid before Parliament and submitted to the relevant Minister who will be under an obligation to respond to a committee's recommendations.

All of the functions of existing committees are incorporated one way or another in one of the committees' terms of reference. Overall, the number of backbench members of Parliament involved in committees increases by only one. Three of the committees are joint House committees, but the Economic and Finance Committee remains a committee of the House of Assembly in line with its responsibilities as the House initiating appropriations to Government functions.

The committees will continue to be serviced by officers of the Parliament as well as by other research staff as required. This will ensure that they are able to perform their functions. It is hoped that this reform of the committee system will encourage parliamentarians to build up specialised knowledge in particular policy areas and be conducive to an improved public debate on important community issues.

I commend the Bill to the House for members to consider over the winter recess and I look forward to a positive debate at the beginning of the budget session so that this new and revitalised committee system is ready for implementation early in 1992. I seek leave of the Council to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the measure to be brought into operation by proclamation.

Clause 3 sets out definitions of terms used in the measure. 'State instrumentality' is defined as any agency or instru-

mentality of the Crown including administrative units of the Public Service, statutory authorities and tribunals, but excluding bodies wholly comprised of members of Parliament, courts and councils or other local government bodies. 'Public sector operations' are defined as operations and activities carried on by State instrumentalities.

Clause 4 provides for the establishment of an Economic and Finance Committee as a committee of Parliament.

Clause 5 provides that the Economic and Finance Committee is to be a House of Assembly committee consisting of seven members of the House of Assembly appointed by that House. The clause excludes Ministers of the Crown from membership of the committee.

Clause 6 sets out the functions of the Economic and Finance Committee. These are:

(a) to inquire into, consider and report on such of the following matters as are referred to the committee—

(i) any matter concerned with finance or economic development;

(ii) any matter concerned with the structure, organisation and efficiency of any area of public sector operations or the ways in which efficiency and service delivery might be enhanced in any area of public sector operations;

(iii) any matter concerned with the operations of a particular State instrumentality or whether a particular State instrumentality should continue to exist or whether changes should be made to improve its efficiency and effectiveness;

(iv) any matter concerned with regulation of business or other economic or financial activity or whether such regulation should be retained or modified in any area;

(b) to perform such other functions as are imposed on the committee under any Act.

Clause 7 provides for the establishment of an Environment and Resources Committee as a committee of Parliament.

Clause 8 provides that the Environment and Resources Committee is to be a joint committee. The committee is to consist of six members, three from the House of Assembly appointed by that House and three from the Legislative Council appointed by the Council. The clause excludes Ministers from membership of the committee.

Clause 9 sets out the functions of the Environment and Resources Committee. These are:

(a) to inquire into, consider and report on such of the following matters as are referred to the committee:

(i) any matter concerned with the environment or how the quality of the environment might be protected or improved;

(ii) any matter concerned with the resources of the State or how they might be better conserved or utilised;

(iii) any matter concerned with planning, land use or transportation;

(b) to perform such other functions as are imposed on the committee under any Act.

Clause 10 provides for the establishment of a Legislative Review Committee as a committee of Parliament.

Clause 11 provides that the Legislative Review Committee is to be a joint committee. It is to consist of six members, three being members of the House of Assembly appointed by that House and three being members of the Legislative Council appointed by the Council. Ministers are excluded from membership of the committee.

Clause 12 sets out the functions of the Legislative Review Committee. These are:

(a) to inquire into, consider and report on such of the following matters as are referred to the committee:

(i) any matter concerned with legal, constitutional or parliamentary reform or with the administration of justice but excluding any matter concerned with joint standing orders of Parliament or the standing orders or rules of practice of either House;

(ii) any Act or subordinate legislation, or part of any Act or subordinate legislation, in respect of which provision has been made for its expiry at some future time and whether it should be allowed to expire or continue in force with or without modification or be replaced by new provisions;

(iii) any matter concerned with inter-governmental relations;

(b) to inquire into, consider and report on subordinate legislation referred to it under the *Subordinate Legislation Act 1978*;

(c) to perform such other functions as are imposed on the committee under any Act.

Clause 13 provides for the establishment of a Social Development Committee as a committee of Parliament.

Clause 14 provides that the Social Development Committee is to be a joint committee and to consist of five members, three being members of the House of Assembly appointed by that House and two being members of the Legislative Council appointed by the Council. Ministers are excluded from membership of the committee.

Clause 15 sets out the functions of the Social Development Committee. These are:

(a) to inquire into, consider and report on such of the following matters as are referred to the committee:

(i) any matter concerned with the health, welfare or education of the people of the State;

(ii) any matter concerned with occupational safety or industrial relations;

(iii) any matter concerned with the arts, recreation or sport or the cultural or physical development of the people of the State;

(iv) any matter concerned with the quality of life of communities, families or individuals in the State or how that quality of life might be improved;

(b) to perform such other functions as are imposed on the committee under any Act.

Clause 16 deals with references to committees. Under the clause, any matter that is relevant to the functions of a committee may be referred to the committee—

(a) by resolution of the committee's appointing House or Houses;

(b) by the Governor, by notice published in the *Gazette*; or

(c) of the committee's own motion.

The clause makes it clear that this provision is in addition to and does not derogate from the provisions of any other Act under which a matter may be referred to a committee.

Clause 17 deals with reporting by committees. Under the clause, a committee must, after inquiring into and considering any matter referred to it, report on the matter to its appointing House or Houses. The clause allows a committee's appointing House or Houses, when referring a matter to the committee, to fix a period within which the committee is required to present a final report to the House or Houses on that matter. Each committee is required:

(a) to give priority—

(i) first, to the matters referred to it under any other Act;

(ii) secondly, to the matters referred to it by its appointing House or Houses;

(iii) thirdly, to the matters referred to it by the Governor,

and then deal with any other matters before the committee;

and

(b) to comply with any limitation of time fixed by its appointing House or Houses. The clause provides that a committee may make interim reports and publish documents relating to a reference. A committee may include in a report a draft Bill to give effect to any recommendation of the committee. The clause provides for the inclusion of minority reports in committee reports.

Clause 18 provides that, on a report being presented by a committee to its appointing House or Houses, the House or Houses may, by resolution, remit the matter or any of the matters to which the report relates to the committee for their further consideration and report.

Clause 19 provides for automatic reference of a committee report, or part of a committee report, to the responsible Minister if the committee so recommends in its report. This is to occur on the report being presented by the committee to its appointing House or Houses. The Minister is required by the clause to respond within four months and to include in the response statements as to which (if any) recommendations of the committee will be carried out and the manner in which they will be carried out and which (if any) recommendations will not be carried out and the reasons for not carrying them out. The Minister's response must be laid before the committee's appointing House or Houses within six sitting days after it is made.

Clause 20 provides for the term of office of committee members. Members are to be appointed as soon as possible after the commencement of each new Parliament and to remain in office until the first sitting day of the members' appointing House following the next general election.

Clause 21 provides for vacancies in office and removal of members. A member may be removed by the member's appointing House. The clause provides that a member ceases to be a member if he or she dies, resigns by notice in writing to the Presiding Officer of the member's appointing House, completes a term of office and is not reappointed, ceases to be a member of his or her appointing House, becomes a Minister or is removed from office by his or her appointing House. The clause provides for the filling of casual vacancies.

Clause 22 ensures the validity of committee proceedings despite a vacancy in committee membership.

Clause 23 requires each committee to appoint one of its members from time to time as presiding officer of the committee.

Clause 24 deals with the procedure at committee meetings. The clause provides for meetings to be chaired by the presiding officer, or, in his or her absence, by a person elected by the committee and for a quorum of a half plus one. The person presiding at a meeting is to have a deliberative vote only.

Clause 25 ensures that a committee may sit during recesses and adjournments of Parliament and during intervals between Parliament, but not while its appointing House or either of its appointing Houses is sitting except by leave of that House.

Clause 26 provides that, unless the committee otherwise determines, members of the public may be present while a committee is examining witnesses but not while it is deliberating.

Clause 27 requires a committee to keep full and accurate minutes.

Clause 28 provides that a committee has the same powers to summon and compel the attendance of witnesses and the production of documents as a royal commission under the Royal Commissions Act 1917 and attracts the operation of the relevant provisions of that Act. The clause makes it clear that this is in addition to, and not in derogation of, the powers, privileges and immunities that apply to a committee as a committee of Parliament.

Clause 29 provides that a committee member is not to take part in proceedings relating to a matter in which the member has a direct or indirect pecuniary interest that is not shared in common with the public or a substantial section of the public.

Clause 30 ensures that a committee may continue and complete matters before it despite changes in its membership.

Clause 31 protects committees from judicial review.

Clause 32 places a duty on the President and the Speaker to avoid duplication by committees, to arrange for staff and facilities for committees and, generally, to ensure their efficient functioning. The President and Speaker are to fulfil this role in consultation with the presiding officers of the committees.

Clause 33 provides that a committee may, with the approval of the Minister administering an administrative unit of the Public Service, on terms mutually arranged, make use of employees or facilities of that administrative unit. Under the clause, a committee may, with the prior authorisation of the Presiding Officer or Officers of the committee's appointing House or Houses, commission any person to investigate and report to the committee on any aspect of any matter referred to the committee.

Clause 34 provides that the office of a member of the committee (including the office of Presiding Officer) is not an office of profit under the Crown.

Clause 35 provides that the money required for the purposes of the measure is to be paid out of money appropriated by Parliament for the purpose. The schedule provides for consequential repeals and amendments. It provides for the repeal of the Public Accounts Committee Act 1972 and the Public Works Standing Committee Act 1927. It provides for amendments to the Constitution Act 1934, the Industries Development Act 1941, the Parliamentary Remuneration Act 1990, the Planning Act 1982 and the Subordinate Legislation Act 1978. The Constitution Act is amended to remove references to the Joint Committee on Subordinate Legislation.

The Industries Development Act is amended to change the parliamentary representation on the Industries Development Committee so that the four members (two Government and two Opposition) are drawn from the membership of the new Economic and Finance Committee by nominations from time to time by that committee rather than by appointment by the Governor.

The schedule to the Parliamentary Remuneration Act is amended to substitute references to the new committees for references to the existing committees in relation to additional annual salary for officers on parliamentary committees.

Provision is made for additional annual salary as follows:

	Percentage of basic annual salary
Presiding Officer of the Economic and Finance Committee	17
Other members of the Economic and Finance Committee	12
Presiding officer of the Environment and Resources Committee	17
Other members of the Environment and Resources Committee	12
Presiding Officer of the Legislative Review Committee	14
Other members of the Legislative Review Committee	10
Presiding Officer of the Social Development Committee	14
Other members of the Social Development Committee	10

No additional annual salary is provided for membership of the Industries Development Committee.

The Planning Act is amended so that it provides for supplementary development plans to be referred to the new Environment and Resources Committee rather than, as at the present, the Joint Committee on Subordinate Legislation.

Finally, the Subordinate Legislation Act is amended by incorporating into that Act provisions currently contained in Joint Standing Orders for the reference of regulations. Under these provisions, every regulation that is required to be laid before Parliament is, when made, referred by force of the provisions to the new Legislative Review Committee.

The committee is required to inquire into and consider all regulations referred to it. The committee is required to consider all regulations as soon as conveniently practicable after they are referred to the committee and, if Parliament is then in session, to do so before the end of the period within which any motion for disallowance of the regulations may be moved in either House of Parliament.

Under the provisions, if the committee forms the opinion that any regulations ought to be disallowed, it must report the opinion and the grounds for the opinion to both Houses of Parliament before the end of the period within which any motion for disallowance of the regulations may be moved in either House. If Parliament is not in session, it may, before reporting to Parliament, report the opinion and the grounds for the opinion to the authority by which the regulations were made.

The Hon. R.I. LUCAS secured the adjournment of the debate.

NATIONAL PARKS

Adjourned debate on motion of Hon. Anne Levy:

That the resolution contained in message No. 110 from the House of Assembly be agreed to.

(Continued from 21 March. Page 3781.)

The Hon. J.C. BURDETT: This resolution is in three parts. The first part deals with the abolition of the Belair Recreation Park and the constitution of a national park on the same land as the Belair National Park. Secondly, it abolishes the Katarapko Game Reserve and constitutes a Murray River National Park on the same land. Thirdly, it abolishes the Coorong Game Reserve and includes it within the Coorong National Park. These are three separate issues about which members could have different views. Mr President, I understand that you can put the three parts separately, without a motion on my part or that of anyone else. When the time comes to put the resolution, I ask that you put it in three separate parts.

In relation to the first part, the Opposition supports the change of name to the Belair National Park. Many of us still refer to this delightful area as the Belair National Park. I recall that when I was a schoolboy a few of us would, from time to time, put our bicycles on the train and go to the Belair station. We would then proceed to the Belair National Park and have a wonderful day, including skinny dipping in the dam. I expect that this was very naughty, not from the point of view of nudity but from the point of view that probably the water was used for drinking purposes. The day would be capped off by rushing down the Old Belair Road on our bicycles. So, the opposition supports this part of the resolution with some pleasure.

The rest of the resolution is not so pleasant. In regard to the Katarapko Game Reserve, there has been little or no consultation with local people. The present reserve is used largely by local people for recreational purposes. These people are sensitive to the preservation of the flora and fauna. However, once a national park sign is hung on it, every man and his dog will go into the park, even if dogs are banned. The Coorong Game Reserve has long been a successful reserve, both from the point of view of duck hunters and conservationists. I will expand later on the well-established phenomenon that hunters all over the world, especially those in the United States, have been among the most active and successful conservers of native fauna and flora. Unfortunately, the State's national parks are not well cared for and, if the game reserves are abolished, more ducks will be lost because their habitat will be destroyed by vermin than would be as a result of being shot by duck hunters.

The former Minister (Dr Hopgood) announced that the Coorong Game Reserve would not be abolished until after 1 January 1993. Why did the Government not wait until then to introduce this resolution? To his credit, the Hon. Dr Hopgood did not say that the reserve would be abolished on or after 1 January 1993; he simply said because many people were concerned about it, that he would grant a moratorium until at least that time. However, this Minister wants to jump the gun. She wants to pass a resolution now that will be effective on or after 1 January 1993. If we pass this resolution, we will be taking the matter out of the hands of the Parliament. Why should we?

In this Council we have arguments from time to time about retrospective legislation. It is generally accepted that except in special circumstances laws ought not to operate retrospectively; they ought to operate on the facts that arise after Parliament has passed its Act. This is an astonishing example of not retrospective but prospective legislation. It is a decision of the Parliament that is to operate not from now into the future, but at any time, if at all, when the Government sees fit after 1 January 1993. I find this almost as objectionable as restrospective legislation. We would certainly be in a sorry mess if other Ministers emulated this Minister and sought to legislate now for two years or more hence. If this were done, Parliament would be a shambles.

I think I know how this astonishing situation came about. The Minister originally intended to take this action now, despite her predecessor's clear undertaking. She had trouble with her own Party in the first place. I understand that her resolution passed Caucus by a very slim majority, particu-

larly when one has regard to the fact that the principle of Cabinet solidarity would have assured her of 13 votes. Government members and other members of Parliament shamed the Minister out of blatantly breaking her predecessor's genuine undertaking. She therefore watered down her proposed motion to make it not operate until after 1 January 1993. I think the so-called coalition partners of the present Government—to whom the honourable Attorney referred this morning—might have had a part in that. The Minister was shamed into making the measure not come into operation until the expiry of the moratorium period. I repeat that, in his undertaking, Dr Hopgood did not imply in any way that he would in fact introduce a resolution to abolish the Coorong Game Reserve after 1 January 1993.

This is an astonishing example of taking things out of the hands of the Parliament prospectively, two years before the event. In explaining this resolution, the Minister in this Chamber made the rather remarkable statement that:

It should be mentioned that, in fact, only between one per cent and three per cent of licensed hunters actually use the Coorong, so its importance for hunting is now not significant.

I should have thought that that statement would be counter productive to the Government's argument. If only between one per cent and three per cent of licensed hunters actually use the Coorong, why is the Government so upset about it, and why is it introducing this amazing prospective measure not to come into effect until on or after 1 January 1993?

Letters were sent to the Minister from the District Council of Berri, the Corporation of the Town of Renmark, and the District Councils of Loxton, Barmera, Coonalpyn Downs, Lucindale, Millicent, Paringa, Pinnaroo, Truro, Mount Gambier, Beachport and Penola saying that they were opposed to the closure of the Katarapko and Coorong Game Reserves. The letters were in different terms, but that was their subject matter. Without having looked at the map, it seems to me that this grouping of district councils covers fairly well the Katarapko and Coorong Game Reserves.

It astounds me that the Minister is proceeding with this resolution contrary to the wishes of the great majority of local government in the area on a matter where one would have thought that local, and indeed local government, input was important. This matter certainly has some concern for the whole State, but basically it was a local matter in those areas. I should have thought that the views of the governing bodies in those areas would be important and be taken into account, but they have been completely ignored.

The Minister totally ignored the consultative process which was specifically set up by the Government to help to resolve the Coorong issue. More than 100 submissions were made, and only three of the 100 and all those from interstate favoured closure of the game reserve. More than 97 per cent of the submissions favoured hunting or were neutral about it. This matter has been widely canvassed in the provincial press, almost universally opposing the action taken by the Minister. I might add that the provincial press has been on the phone to me, desperately hanging on to what will happen to this resolution. Is this democracy?

I understand that the Minister is now conducting an inquiry into the activities of the National Parks and Wildlife Service in the South-East, but I am afraid that it is probably too late. A local survey of 541 people on Coorong Beach and Game Reserve was taken recently, and fewer than 10 per cent favoured closure. Again, is this democracy? The Minister is apparently quite pig-headed about where she intends to go against the wishes of just about every relevant person.

Mr Ian Stewart, a foundation member of the Coorong Consultative Committee, recently resigned. In his letter of resignation to the Minister, he said, 'Your actions in closing the game reserve are contrary to the plans.'

I now refer to the minutes of the meeting of conservation and animal welfare societies with the National Parks and Wildlife Service to discuss the 1990 game seasons for duck and quail. I quote from the statement in the minutes by a representative of the Nature Conservation Society. I emphasise that it was a representative not of the Field and Game Association but of the Nature Conservation Society. He is reported in the minutes as having said:

I believe the Government should make a firm decision, once and for all, to base its habitat retention, the welfare of species and wildlife conservation policies, including opening and closing dates, solely on biological grounds and not political expediency. I also believe the Government, including the National Parks and Wildlife Service, has a duty to inform the public of the facts and of the usefulness to wetland conservation and rehabilitation of a strong hunting lobby. It should also be pointed out that all waterfowl biologists, including CSIRO waterfowl biologist, Dr Peter Fullagar, express views to the effect that, if Australian conservation organisations supported conservation-oriented hunting organisations, the management of depleted wetlands for the benefit of waterfowl and other species may be advanced substantially, as it has been in Europe, the USA and Canada. If the greenhouse effect comes into full operation (and I believe it will) I do not know of anybody in Australia to date, other than duck hunters, who will be prepared to put into wetland rehabilitation as much physical labour and money, and it worries me in the extreme.

I would point out that in the South-East there is extreme concern and unease about the possibility, if the Coorong and Katarapko Game Reserves are closed, of a Scottish style private game estate, or perhaps more than one, being set up. At present, in Scotland, there is a charge of £1 000 sterling per gun to enter, £6 000 for every deer taken, £50 for every grouse, and so on. I make no criticism of Scotland. That situation has existed for a long time and people come from all over Europe and the United States. I suppose this might be thought to be good for our tourism industry.

However, in our egalitarian society, where it has always been accepted that if one goes to a game reserve properly in accordance with the conditions of entry, or if one goes onto private property, getting the consent in writing of the landowner, one is entitled to hunt ducks or other species of game which it is lawful to take. That has been the kind of thing that we in South Australia have expected. There are some suggestions of this starting already, because there is one property where one has to pay $20 per gun. However, the money is not used for private profit; it goes into a trust fund.

There is a great deal of unease, particularly in the South-East, that if these two game reserves are closed we will get this kind of estate where only the rich will be able to afford to hunt ducks. Those who are not rich will be excluded. Only the rich, who can afford to pay large sums of money, will be able to afford this privilege.

The question whether duck hunting ought to be banned is a totally different issue which should not be addressed here. I suspect that that might be part of the Minister's agenda, but it ought not to be addressed in this resolution. If one accepts that duck hunting is legal and acceptable, then it ought to be available, in accordance with the South Australian lifestyle, to any member of the community who is prepared to abide by the rules. We should not get to a situation where only those who can afford to pay large sums of money should be able to hunt ducks.

For those reasons, I oppose the second and third parts of the resolution, but I reiterate that I support the first one, and will vote accordingly when the resolution is put in those three parts.

The Hon. M.J. ELLIOTT: I support the motion, but I will qualify my support in relation to each section. The

name change of the park at Belair from a recreation park to a national park is merely a cosmetic move—some would even say it is a publicity stunt—but it has our support. Nothing about the management or level of recreational use of the park will change—at least, no change has been indicated. All we are seeing is a name change. I must say that as a cosmetic move it reveals many things about this Government's approach to environmental protection, particularly in relation to national parks.

The Minister for Environment and Planning is fond of publicly touting the increase in land area covered under the National Parks and Wildlife Act. That increase has been substantial: from 6 748 009 hectares in 1987-88 to 16 650 932 in 1989-90—a 146 per cent increase. Over the same period the number of rangers employed by the service has gone from 93 in 1987-88 to 98 in 1988-89, to 97.8 in 1989-90, virtually a consistent number in spite of the vast increase in the area of parks and reserves.

It is interesting to note that the parks and gardens section of the Adelaide City Council employs 128 outside staff and uses the equivalent of 20 engineers in its care of the parklands. The parklands of Adelaide are miniscule when compared with the national parks system, and the Adelaide City Council staff does not care for many of the sports grounds within the parklands, for instance, the Victoria Park race course, the cemetery, the Botanic Gardens, the Adelaide University grounds and so on. So, just the parks and gardens around Adelaide are being cared for by about 200 staff, but the whole of the national parks system in South Australia has 98 outside staff, an absolutely amazing statistic, and indicates the lack of support given.

But protection cannot be achieved by ignoring the areas once they have been established. The commitment to preserve areas should also, logically, include a commitment to adequately manage and care for them. Unfortunately, that kind of commitment takes more than press releases and motions in Parliament to achieve and has low publicity value, whereas making announcements about extending parks and constituting reserves is free and is likely to guarantee a photo in the newspaper for the relevant Minister. It is one thing to constitute parks and say you are protecting and preserving areas of environmental value.

It is another thing to put a concerted effort into eradicating feral animals from parks to stop them destroying not only the flora of the area under protection but also the habitat of native animals and the animals themselves. It is another thing to undertake a program of habitat restoration within the areas set aside, as I think I can safely say that very little of South Australia would not bear the effects of European civilisation.

Those things need research staff and hands-on in-the-dirt work. Much of that work can be achieved, and is already being attempted, by 'friends' groups—volunteers with a commitment to preserving natural environments. The total number of days of voluntary work put into our parks has increased dramatically, from 2 704 in 1987 to 5 479 in 1989—a credit to South Australia. That enthusiasm needs to be backed by Government commitment to put in the coordinating resources to allow large, long-term and wide-ranging projects the research facilities and people vital to maintaining and rehabilitating the areas set aside. So, as I said in relation to the Belair National Park, it is just one more illustration of the nice press release saying that we are doing something when, in relation to Belair National Park, the Government did nothing whatsoever, and that is basically the way parks are being handled in South Australia.

I now turn to questions relating to the Katarapko and Coorong game reserves. The Government's move to end hunting in these two areas and classify them as national parks is something which has my support, but the process by which this has come about does not have my support. On the best estimates provided to me, of the 100 000 ducks shot in South Australia per year 5 per cent are killed in the Coorong by 3 per cent of the hunters State-wide. From 1985 to this year it is estimated that an average of 60 hunter-days is spent in the Katarapko Game Reserve and that an average of two or three birds are shot on each of those hunter-days.

Another source has told me that hunters use less than 10 per cent of the total area of Katarapko. The importance of Katarapko as a hunting ground has also declined as water levels in the evaporation basin have deliberately been lowered, with water being diverted to the Noora basin, south-east of Loxton which, it is worth noting, is a significant hunting area. Neither of these reserves appears to me in the overall scheme of things to be a significant hunting spot. That does not mean that people who go there do not enjoy and appreciate them, but in terms of overall hunting effort and numbers of ducks shot, they are not highly significant. Their loss should not have a devastating effect on the activities of hunters in South Australia.

I understand the hunters association's fears that this move may be the thin edge of the wedge and may lead to the banning of duck hunting State-wide, as has been proposed in Western Australia. Regardless of the pros and cons of that, I am voting on the questions of Katarapko and the Coorong in isolation. However, personally I have a fundamental philosophical problem with recreational shooting being allowed within areas that I believe should be full national parks. I believe that the Act exists to protect, preserve and conserve our national history as its first priority and to provide recreational opportunities as a second priority. I know my view will differ from that held by some within the Department of Environment and Planning, because of some of the decisions made recently about parks. I am talking about the decision the department has made about the resort at Wilpena Pound and others it has considered elsewhere.

As a recreational pursuit, duck hunting has appeal to a significant minority of South Australians and there are other sites, both within and outside the control of the State Government, where hunting is permitted and where the substantial majority of hunting occurs. I believe that shooting in the two areas named in this motion is inappropriate. I do have concerns about allegations that have been raised with me about the decision making process that led to this motion. I have been told that internal investigations were under way within the National Parks and Wildlife Service into allegations that the Minister has been deliberately misled, and that certain evidence put forward as having been the effect of shooting in the Coorong game reserve was in fact fabricated.

Groups in both the Coorong area and the Riverland have complained about the lack of consultation over the decision to end hunting in the two reserves. A letter from the Field and Game Association, dated 3 April, says that the first the local community heard about the reclassification of Katarapko game reserve was the Minister's public announcement. I have heard that the first that members of the committee that advises the Minister on duck seasons heard of the move was in the press. Once again, this is a classic example of Government by media release, which is hardly democratic. Fears are also expressed that other activities, such as camping, water skiing and fishing, will be restricted once the classification is completed. Had discussions been held with the community, including the local government of the

region, which has voiced its opposition to the move, these fears could have been allayed or the arguments for protecting the Katarapko area put on the public record. Despite my concerns about the process used in making this decision and the Government's desire to grandstand about protecting the environment whilst actually putting few resources into it, I support the motion.

The Hon. BERNICE PFITZNER: As my colleague the Hon. Mr Burdett stated, the Minister's motion can be looked at in three parts. First, part a (i) abolishes the Belair Recreation Park and assigning to it the name Belair National Park. The National Parks and Wildlife Act 1972 defines recreation parks as 'areas where people may undertake recreational activities in a natural setting'. National parks are defined as 'areas nationally significant by virtue of their wildlife and scenery'. This change of status from a recreation to a national park is in line with the change in use of the park, and I understand that the community's use is in keeping with this new status. I therefore support this change.

Part a (ii), which abolishes the Katarapko Game Reserve, assigns to it the name 'Murray River National Park'. The definition of game reserves is 'areas managed for conservation and at certain times of the year, where species of game can be taken under certain conditions'.

Similarly part *(b)* abolishes the Coorong Game Reserve and alters the boundaries of the Coorong National Park so as to include in the national park the land formerly comprising the Coorong Game Reserve. These last two parts change the game reserve status to national park status. This, in essence, will prohibit recreational hunting in the name of conservation strategy.

Let us look at some of the facts and responses that surround this reclassification. It reduces recreation hunting opportunity by 70 per cent. The rural and working class community will be most affected as they rely on these public game reserves for their recreation. There were 108 submissions received on a draft management plan and of these submissions only three supported the closure of the Coorong Game Reserve. The response to this present reclassification from the involved councils was overwhelmingly against the reclassification of the Katarapko and Coorong Game Reserves to national parks. I will read some excerpts from letters from these councils. The District Council of Berri says:

> My council objects to this proposal on the grounds that there are sufficient national parks generally within South Australia already and these parks cannot be adequately maintained with resources that you have available.

The Corporation of the Town of Renmark says:

> The total area of game reserves in South Australia in 1990 comprised approximately 22 490 hectares. If the Katarapko and Coorong Game Reserves are reclassified such as to become non-accessible to game hunters, then the area of game reserves will be reduced to approximately 7 000 hectares.
>
> Council has been advised that permission for hunters to undertake conservation work within the Katarapko reserve was rejected many years ago. Further, if such work had been approved, it would have helped to enhance the wildlife habitat within the reserve area.
>
> Finally, game hunting is a significant and popular recreational pursuit, and attracts many thousands of visitors to the respective areas each year. As a result, all Riverland towns receive a spin-off from the tourism generated. Such income is essential to the tourism industry and the economy of the region generally.

A letter from the District Council of Loxton states:

> On behalf of council I wish to lodge a strong objection to the proposed reclassification of the Katarapko Game Reserve as a national park. The present game reserve status enables full utilisation of the area's recreational potential as well as preserving the appropriate conservation areas.

A letter from the District Council of Barmera states similar objections as does a letter from the District Council of Coonalpyn Downs. The letter from the District Council of Lucindale states:

> In response to your letter, I advise that my council supports your organisation's objections to the rededication of Coorong and Katarapko Game Reserves as national parks. Council certainly believes that native flora and fauna should be preserved, but can see no harm in hunting or fishing providing these operations are controlled and the environment is not damaged. Healthy outdoor recreation of all types ought to be encouraged, especially as it may in the long term foster a more widespread appreciation of our natural environment.

A letter from the District Council of Millicent states likewise, as do letters from the District Council of Paringa, the District Council of Pinnaroo and the District Council of Truro. A letter from the District Council of Mount Gambier states:

> I am to express council's objection to the proposal to dedicate the Katarapko and Coorong Game Reserves as national parks. It would appear that the major reason for this proposal is that these game reserves are adjoining national parks, which is not considered to be a pressing argument.

A letter from the District Council of Beachport states:

> At a recent meeting of council the issue of the above game reserves being rededicated to national parks was raised. Council subsequently resolved to write objecting to your decision to rededicate both these reserves. It appears that Government is headed for clashes with the public over these issues as well as others of recent times such as certain provisions that are contained in park management plans which have been adopted. In the South-East such decisions are creating an uncertain environment for National Parks and Wildlife Service field staff and it appears that the environment will be the loser because of dissension that is apparent.

Similarly, a letter from the District Council of Penola states:

> Council believes these areas have functioned well as game reserves, providing both recreation and sporting areas to the State's community and conserving the areas in an effective manner. Council believes there is little to be gained in preventing use of these areas as game reserves and has serious reservations about the ability of the National Parks and Wildlife Service to maintain areas it currently has control of without adding more significant areas to its control.

Numerous volunteers who undertook to do conservation work to enhance wildlife were rejected some years ago and nothing has been done since. The consultative committee's work on a management plan for the Coorong National Park and game reserve has been preempted and the reclassification is contrary to the management plan. Mr Ian Stewart of Rendelsham in a letter to the Hon. Ms Lenehan states:

> I am writing to inform you of my resignation from the Coorong Consultative Committee, I was one of the founding members of the committee which was given the task of writing the management plan for the Coorong National Park and Game Reserve.
>
> Problem areas were viewed on field trips. The many submissions put forward were taken into consideration. The committee debated at length the needs of the Coorong. After long deliberation compromises were achieved. We were told by National Parks and Wildlife staff that the plan was a success. Minister, your actions in closing the game reserve to hunters and adding the beach to the park are contrary to the plan. Your actions have damaged the consultative process and the work done by consultative committee members.
>
> In addition to my resignation I am returning my five year Certificate of Appreciation as further protest. It is with great regret that I have had to make this decision but I now view the consultative process to have been a sham.

In summary, we have a Government that, first, invites expert, experienced and concerned local people to form a consultative committee to produce a management plan and then it proceeds not only to ignore the committee's recommendations but to make a proclamation to reclassify the Katarapko and Coorong Game Reserves as national parks. This disease of the Government of duping informed and vocal people on to consultative and review committees and

then proceeding to make unilateral decisions contrary to the committees' recommendation is epidemic. We see it in the transfer of planning powers from State to local government, the Mount Lofty review, the Hillcrest closure and the rural medical services. The Government pretends to listen to the community's voice and then proceeds in the opposite direction. It is politically outrageous! Secondly, the duck hunting emotional issue is also present in this debate. It is a separate issue. If the Minister is reclassifying the game reserves to prevent further hunting then she ought to say so, and not pretend to do this under the guise of conservation.

Thirdly, the majority of the involved councils have objected to the reclassification. They represent the local community and so it could be implied that a large part of the local community is not happy with this proposed proclamation. Fourthly, there does not seem to be any scientific evidence that closure of those parks to recreational hunting activities will be more beneficial to the wildlife and to the environment.

In closing, it is perplexing as to why this reclassification has been decided upon. It is against the consultative committee's recommendation; it is against the local communities' wishes; it discriminates against recreational hunting; and there is no scientific evidence to support the suggestion that recreational hunting will cause environmental degradation. One can only surmise that the Minister again does not understand, in depth, the variables needed to be taken into account to implement a management plan for the area. She, therefore, slaps on another inappropriate draconian law that does nothing for the environment nor for the community. I oppose the second and third parts of the resolution.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I thank members for their contributions to this debate which concerns the classification of various reserves. The debate has brought some interesting divergences of opinion on the appropriate classifications for these three parcels of land. I am particularly interested in the opinion of the Hon. Dr Pfitzner, who I thought was a 'green' Liberal, one of the new breed of Liberals. That her approach should be so anti-conservation and anti-sympathetic to the conservation point of view will, I am sure, be of great interest to everyone in conservation circles.

The Minister in another place mentioned a number of tactics that have been used to divert the argument away from the basic argument of what is the classification of reserves. There has been a great deal of talk in this place and in the other place about issues such as access to beaches, changing the uses of parcels of land, duck hunting, and so on, but they have nothing to do with the debate before this Council. I point out that the overriding statutory obligation of the Minister, which is placed on her by the National Parks and Wildlife Act, is the control and administration of reserves under that Act. That is her responsibility.

A number of the objects of that Act (listed under section 37) include the preservation and management of wildlife; the preservation of historic sites; objects and structures of scientific or historic interest; the encouragement of public use and enjoyment of reserves; and education in and proper understanding and recognition of their purpose and significance. It seems to me that a number of contributions did not necessarily reflect what are the statutory obligations of the Minister and the objectives of the National Parks and Wildlife Act itself, as set out in that Act and, therefore, the law of the land.

In looking at the Government's position in this debate, there is almost universal acceptance of a change of classification for the Belair Recreation Park to the Belair National Park. The Government has announced this change to coincide with the centenary of national parks in South Australia, and I believe that this is a highly appropriate opportunity to make such an announcement. So, I will not dwell further on the proposed reclassification of Belair.

In relation to the Katarapko and Coorong game reserves, the debate has been long and, in some cases, difficult. Before dealing with the two reserves individually, I think it is useful perhaps to bring up the issue of duck hunting. I acknowledge, in line with the Hon. Mr Burdett, that the issue of duck hunting *per se* has little to do with the motion that is before us. But, the two topics seem to have become enmeshed in speeches in Parliament, and certainly in the public mind, and some of the opposition that is being expressed is in regard to duck hunting. There is no doubt that to many people the two issues have become enmeshed.

We should realise the changing attitudes of the community towards duck hunting. I am sure that every member here would be aware of the report of the task force that inquired into duck hunting in South Australia, which was released a number of months ago. In the executive summary of that report, the conclusions and options for a future policy included: a ban on duck hunting in South Australia altogether; the continuation of duck hunting; providing for hunting on private land only; providing for hunting on private and public lands with the revised strategy; or, allowing hunting on public lands only. The five different options were put forward.

In looking at those five options, the Government has concentrated on that option that would allow duck hunting to occur on both private and public lands, but with the revised strategy. The reason for this is the clear indication from the community that it will not continue to accept the continuation of duck hunting to the extent that has been occurring. Having said that, we completely accept that a total ban on duck hunting in South Australia is neither a workable nor a sensible proposition, and the Government has no intention of pursuing that option.

The Hon. R.J. Ritson: Will you ban duck eating?

The Hon. ANNE LEVY: We are not banning duck hunting. Providing for duck hunting on private land only—another of the options presented—has the same sorts of problems, particularly in relation to the administration and management of such a policy and the tendency for the activity to become an exclusive one for the privileged few who have access to that particular piece of private land. Again, that is an option that the Government is not pursuing.

The Hon. Bernice Pfitzner: It's a separate issue.

The Hon. ANNE LEVY: I agree, it is a completely separate issue.

The Hon. Bernice Pfitzner: Then why are you going on about it?

The Hon. ANNE LEVY: Because, as I have already indicated, if you were listening, a lot of people in the community have got the two issues intertwined. The Hon. Mr Burdett made exactly the same point in his speech.

The Hon. Bernice Pfitzner: And so did I. Maybe you are getting it intertwined.

The Hon. ANNE LEVY: It is because they have become intertwined in the minds of so many people that I feel it necessary to have clearly on the record what is the policy of the Government with regard to duck hunting. The duck hunting policy adopted by the Government aims to minimise the adverse environmental and animal welfare impacts

of duck hunting and maximise the contribution that waterfowl management makes to wetland conservation and rehabilitation.

The Hon. M.J. Elliott interjecting:

The Hon. ANNE LEVY: Yes, I have said so. The policy includes a commitment to the investigation of further suitable areas for hunting and incentives for wetland rehabilitation and management. That has been stated. I am not saying anything new: it has been stated by the Minister on numerous occasions. Referring specifically to the Katarapko Game Reserve, the observations by officers of the National Parks and Wildlife Service are that Katarapko is increasingly becoming an area used for passive recreation rather than for hunting of game species. I think a member opposite also referred to the great use of the Katarapko Game Reserve for recreational purposes.

Over a number of years, the National Parks and Wildlife Service has undertaken significant capital works within the Katarapko Game Reserve for the benefit of campers and other passive recreational users. Further, the report of the Murray-Mallee Management Review, which was released in 1987, indicates that Katarapko is a very high value area for wetland conservation. A further aspect of which the Government is well aware is the very poor recognition of the national significance of the Murray River from a nature conservation and recreation point of view. The Fenner conference, which was sponsored by the Australian Academy of Science, recognised the desirability of establishing a true national park along the Murray River. It is disgraceful that the Murray River, the major river of the country, does not have a significant national park anywhere along its length.

That was recognised by the Fenner conference, and the South Australian Government is taking the initiative by identifying lands along our section of the Murray that would be appropriate for inclusion in such a trans-State border national park. Discussions have occurred between New South Wales, Victoria, South Australia and the Commonwealth to establish a national park along our premier river, the Murray River, involving all four Governments. Our initiative with Katarapko is the first to be taken by any of the four Governments. I understand Victoria will follow suit before very long, and the New South Wales Minister for Environment and Planning is also keenly examining the possibility of New South Wales contributing to a trans-border national park on our major river.

I am sure members will be aware of negotiations that are currently being undertaken with Robertson Chowilla Pty Ltd, the lessees of Chowilla Station, to explore the opportunity for the establishment of a national park and regional reserve over portions of that property to add further to the South Australian portion of a Murray River national park. As the Minister has indicated on other occasions, other South Australian lands proposed for inclusion within the Murray River national park are either un-alienated Crown lands or lands which are currently included in the reserve system, such as the Katarapko Game Reserve, which forms part of the motion before the House. We certainly believe that the environmental significance of the Murray River is such that it deserves recognition by the establishment of the best of the Murray River wetlands in a national park crossing all State borders.

The proposal to change the status of the Coorong Game Reserve is probably the part of the motion that is causing the most concern. Unfortunately, this is also the part of the debate where most of the diversionary tactics are being used both inside and outside of this Parliament. I make quite clear that the proposal to change the status of the game reserve has nothing whatsoever to do with access to beaches or other issues of management of lands comprising the beaches of the South-East.

The anomaly of having a game reserve with a national park on both sides has been mentioned frequently. It is rather difficult for the South Australian Government to argue the national significance of the Coorong National Park while the anomaly of having a game reserve in the middle of it continues. I am well aware that the Coorong Game Reserve has been used for hunting by a small section of the community for a long time.

It is relevant to reflect on the number of hunters who used the game reserve on opening day on 10 March this year. Members are probably aware that in this State the number of hunting permits has fluctuated between 7 125 (issued in the year ending 30 June 1987) and 6 534 (issued for the year ending 30 June 1990). So, between 6 000 and 7 000 permits are issued for duck hunting each year. My information is that, on the opening day of the season (10 March), 10 hunters were counted in the Coorong reserve, and one duck was recorded as being taken. While some elements of the community may argue—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —that confusion concerning the actual opening day may have affected the number of hunters, the outcome hardly points to a massive demand for the use of the game reserve for this purpose. While the debate on the Coorong Game Reserve is concentrated on the plan of management adoption process, it is very important for members to understand that the finalisation of the planning process was paralleled by the duck hunting review. The review outcome—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —had a major influence on the decision in respect of the Coorong.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I realise that members opposite are not interested in what I have to say and, consequently, prefer to continue their own debate—

Members interjecting:

The PRESIDENT: Order! The Hon. Dr Ritson will come to order.

The Hon. ANNE LEVY: My final comments on this debate relate to consultation. The issue of management of the Coorong National Park and Coorong Game Reserve has, in effect, been in the public arena for eight years. There is no question that public consultation and discussion on those issues is important. However, ultimately, a decision must be made as to what action the Government will take. Lack of consultation, it seems to me, is too often used as being synonymous with 'You didn't give me the chance to block it.' The two are not synonymous, Mr President.

Quite clearly, the ultimate responsibility in this matter legally rests with the Minister. Having examined all the issues before her and the differences of opinion that are being expressed across the community, the Minister has concluded that the change of category of the Coorong Game Reserve to national park is the most appropriate way to go in the long term interest of the protection of the Coorong.

The Hon. J.C. Burdett interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: The Minister for Environment and Planning made the point in her response to the debate in the other place by posing the question—and I would like to ask members opposite the same question: Would a future Liberal Government change the classification back from

'national park' to 'game reserve', if a Government was formed in South Australia? I ask members opposite that question in all sincerity.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: My view is that it is most unlikely that they would do this; that they would bring forward a motion before both Houses of Parliament, which would be the necessary action and, in consequence—

The Hon. J.C. Burdett: I don't think the Labor Party knows what a Liberal Government would do.

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The House will come to order. The honourable Minister.

The Hon. ANNE LEVY: In consequence of that, I certainly believe that the Minister's decision on the classification of this reserve is the correct one. I commend the resolution to the House.

The PRESIDENT: I intend to divide the resolution into three distinct parts. I first put the question that paragraph *(a)* (i) stand part of the resolution.

Paragraph *(a)* (i) carried.

The PRESIDENT: I put the question that paragraph *(a)* (ii) stand part of the resolution.

The Council divided on paragraph *(a)* (ii):

Ayes (11)—The Hons. T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese.

Noes (10)—The Hons. J.C. Burdett (teller), L.H. Davis, Peter Dunn, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Majority of 1 for the Ayes.

Paragraph *(a)* (ii) thus carried.

The PRESIDENT: I now put the question that paragraph *(b)* stand part of the resolution.

The Committee divided on paragraph *(b)*:

Ayes (11)—The Hons. T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese.

Noes (10)—The Hons. J.C. Burdett (teller), L.H. Davis, Peter Dunn, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Majority of 1 for the Ayes.

Paragraph *(b)* thus carried.

Resolution thus carried.

HOUSING AGREEMENT BILL

Adjourned debate on second reading.

(Continued from 9 April. Page 4149.)

The Hon. L.H. DAVIS: The Opposition supports this Bill which gives legislative effect to the new Commonwealth-State Housing agreement. It repeals the five-year Housing Agreement Act 1984, which has operated for about five years. The new Bill is to come into operation for a 10-year period and all States and Territories have agreed to this new arrangement for Commonwealth-State housing finance to 1999.

South Australia was in some dispute with the Commonwealth with respect to signing the agreement, given that the level of funding that South Australia receives under the new agreement will fall dramatically. Of course, this reduction in funding will impact on the ability of the Housing Trust to add to its housing stock in future years. Indeed, it is interesting to reflect on the impact of reduced funding on the number of trust units being built or purchased in any one financial year.

In the seven year period to 1988-89 an average of 2 700 housing units was built each year, with a peak figure of 3 600 houses constructed and purchased in 1984-85. But we contrast those figures with the prospects for 1990-91, because we have had confirmation from the Minister of Housing (Hon. Mr Mayes) that this figure will reduce to 1 400 in 1990-91, with a further cut to as little as 700 in 1991-92.

Of course, that is reflected in the high level of the trust's waiting list, although the figure has stabilised and fallen slightly in recent years. There is a good reason for that, I suggest. The financial institutions, principally banks, building societies and credit unions, have developed much more flexible and attractive financial packages for home buyers, and that has enabled many families who previously might have been disqualified from buying their own home to access home ownership.

The HomeStart initiative introduced in September 1989 assisted people to enter into housing arrangements. There are some shortcomings to that scheme, but this is not the time to canvass that subject.

The Housing Trust of South Australia has had a proud record in its 55 years of existence. Established by a Liberal Administration in 1936, the trust has built more than 100 000 houses since then. The trust presently manages 63 000 dwellings, representing 12 per cent of South Australia's total housing stock.

The Hon. I Gilfillan: I thought you said you were not going to make any speeches today.

The Hon. L.H. DAVIS: I did not say that—this will only take 10 minutes. This is more than double the national average: only 5 per cent of Australia's dwellings are public housing. Of course, that is part of the difficulty for South Australia. Although we start off with some 12 per cent of the grants allocated under the schedule attached to the Bill, at the end of four years South Australia's grants will have reduced to the level to which it would be entitled on a per capita basis.

In other words, we can see South Australia's share of untied housing grants decreasing from 12 per cent to 8.6 per cent over a four-year period. Not surprisingly, the State Government has complained that Commonwealth funding distributed on a per capita basis between the States will disadvantage South Australia more than any other State as South Australia has the highest proportion of public housing of any State. The South Australian Government has publicly indicated that it will continue to press for a revision of that formula and an indexation of Commonwealth funding.

The Bill contains little meat. The substance of the housing agreement between the Commonwealth and the States and Territories is contained in the detailed schedule annexed to the Bill. The schedule provides details of the financial assistance given by the Commonwealth to the States and Territories through the 10-year period from 1 July 1989 to 1999. With some exceptions the financial assistance package is a carry-over from the old system. There is a distinction between tied and untied grants built into the package. Over a period of time the tied grants will increase in real terms as the total amount increases. I wonder whether there is any necessity in this day and age for a distinction between tied and untied grants. There are untied grants of $777 million and specific housing assistance of $233 million. To me, the distinction creates another layer of bureaucracy. It is unnecessary duplication and we should look to abolish the dis-

tinction between the specific and untied assistance in the housing area.

Clause 13 (6) of the schedule relates to State matching funds and reference is made to a new requirement for the State Government to match Commonwealth funds on a progressive basis. In the first year the State will pay on a $3 for $12 basis, moving through to the fourth year where the State will pay on a $1 for $2 basis. That will not represent a dramatic financial impost on the State, although the impression might easily be given that that is the case.

Another provision deals with the old Commonwealth concessional loans scheme which was formerly administered by the State Bank. As these loans fall due funds released are invested in further home lending. Under the HomeStart scheme, that will take effect on 1 July 1991. The implication of that provision is that the State must lend at least half the value of the untied grants of $80 million. We lend $200 million. So, quite clearly the State is easily fulfilling that criterion. Clause 13 (4) of the schedule states:

> A State may, as agreed by the Minister and State Minister, count a grant as matching funds in a year amounts provided by it in the previous year... in excess of the level of matching funds... for that year, up to a limit of 10 per cent of the funds so required to be provided in that previous year.

In other words, it allows a State to carry over a balance of 10 per cent of those matching funds into the following year. One could imagine a situation where, for instance, there was a boom in housing, and in that situation it would be permissible for the Government to defer up to 10 per cent of its funding in housing, and carry it forward into the following year.

Obviously, it is difficult for any amendments to be proposed to this legislation, because it has been agreed to by all States and Territories. However, that does not preclude me from making a comment. I suggest that the Minister of Housing and Construction should be able, perhaps, to bring forward from a later year up to 10 per cent of matching funds, as discussed in clause 13 (4). In other words, the argument is that in recessionary times, such as we have in 1990-91, we could well borrow our allocated housing funds from a forward year, say, 1991-92, and use those funds to give the economy a fillip in the current year. There is merit in that proposal, and I hope that the Government will consider examining that proposition and discussing it with the Commonwealth Government.

In discussing Part VII—Financial Assistance Arrangements—it is interesting to note that under clause 15 (1) the States will now not receive money in regular monthly instalments. My information is that they will receive funds in this current financial year on 1 July and 1 October. In other words, they will receive hundreds of millions of dollars earlier than they otherwise were meant to receive it. Instead of receiving money in equal monthly instalments for the financial year, pursuant to this agreement, the States will receive their housing funds, on 1 July and 1 October. Of course, that is a significant benefit because of the interest that the States will be able to earn on those funds, which they have received earlier than budgeted for. In South Australia's case, I understand that that will amount to an extra $8 million in financial benefit from the additional interest.

Part VIII refers to the Home Purchase Assistance Account. Of course, that relates to the home purchase assistance schemes run in each State. States can run assistance schemes and, in fact, they are encouraged to do so. They can then use the equity accumulated from earlier loans to gear up on their lending. Again, this is not directly relevant to the discussion of the schedule before the Council, but I think that this State Government could be a lot more adventurous in terms of bundling up its mortgages under the various Housing Trust and home loan programs and using those mortgages in the secondary market to attract additional finance for housing. Obviously, some responsibility and prudence must be associated with such a program, but there is enormous potential in that area.

The other measures in the Bill relating to rental housing assistance under Part IX are worthy of comment. Clause 23 provides that a State can use, in accordance with the principles set out in the schedule and the Commonwealth/State plan, moneys in the rental capital account for different purposes. Commonwealth housing funds can be used by the States for various purposes, including the buying of stock and repaying Commonwealth debt on previous borrowings. Also, 20 per cent can be used for non-capital purposes, for example, the Emergency Housing Office and the Community Housing Association.

Several other matters are dealt with in the legislation that I will not speak to on this occasion, apart from mentioning that Part X, relating to Commonwealth/State housing assistance plans, is something which is, in fact, agreed to in each year. The Commonwealth and State Housing Ministers meet each year and set out provisions for housing assistance under the agreement. That is new; in other words, it is encouraging a joint approach to Commonwealth and State planning of housing assistance programs. This is a progressive measure on which there should be annual consultation between the Commonwealth and the State. In fact, it requires consultation with community and industry groups such as the Housing Industry Association, the Real Estate Institute and the Master Builders Association.

There is no doubt that for many the Commonwealth/State Housing Agreement is a mysterious, complex document. I must say that I have had the advantage of a briefing from the department, and I welcome the opportunity better to familiarise myself with this rather complex agreement.

I am pleased to note in Part XIV that the operation of the agreement is to be evaluated triennially. If one thing is certain about housing in the 1990s it is that it will undergo great change.

An enormous demographic movement is taking place in Australia, and this means that post war housing stock is quite out of line with the needs of the current population. We have three-bedroom houses on quarter-acre blocks occupied by single people. Although there is no easy solution to addressing that problem by using the buzz terms of 'urban consolidation' and 'urban infill', certainly they are matters that must be seriously addressed rather than our adopting the NIMBY approach; that is, not in my backyard.

Quite clearly, when people talk in glowing terms about the need to prevent the expansion of the Adelaide metropolitan area to the north and to the south, with smaller incursions into the Adelaide Hills, they are arguing that on a noble basis. The further the expansion, the greater the cost to the community in terms of the additional sewerage, the additional drainage, the additional roadworks and other public utilities such as gas, electricity, schools, parks, and community support services in health and other areas. That is a proposition which I accept. However, it is difficult to move from that commendable proposition to the solution, which is more practically to utilise the areas close to the city. That will be the challenge for the people involved in the housing industry, whether we are talking about the Government involvement in housing or the private sector housing industry. With those remarks I support the second reading.

The Hon. I. GILFILLAN: The Democrats support this Bill. It is unfortunate that a State which stood high in

performance in terms of providing public housing should not have received more favourable treatment. I believe the principle that per capita distribution may sound ultimately the fairest, but in our case we will suffer a dramatic drop in the provision of public housing as a result of this adjustment to the *per capita* principle.

I asked a question of the Government yesterday as to what they believe they could or would do to make up for the shortfall. In my remarks supporting this Bill it is important to outline that, although it is inevitable that we must sign this agreement, we are really over a barrel and there is really no negotiating factor as to whether or not we sign it. The negotiation was really what could be wrested from the Federal Government by a determined State Premier and State Minister. I have no knowledge as to how vigorously those people fought for the South Australian situation, although I am prepared to acknowledge that they did their best. They were up against a superior force and had no bargaining chips.

The facts that come out of this agreement are dramatic. There are 40 000 people on the waiting list for public housing and approximately 2 500 units have been completed by the Housing Trust for each of the past eight years.

If we continue to have waiting lists of 40 000 people after that performance, honourable members will not find it difficult to imagine how horrendous the waiting list will be, when it is realised that the units completed by the Housing Trust this year will drop to 700, and next year in 1991-92 they will drop to 350, and continue at that level indefinitely. The waiting list will not only increase numerically, but of course the waiting time will extend cruelly from the approximately seven years applying now to, I would forecast, well over 10 years in a matter of three or four years, and that really is crippling for a family which is planning to have a house of their own, when in normal circumstances over the last 15 or so years they would have expected it in a reasonable time.

The funding changes will cause some dramatic adjustments to the amount that the Commonwealth contributes. The figures I have in a subtotal for 1989-90 indicate that the Commonwealth will contribute about $104.5 million and the figure will drop to $89.669 million in 1992-93. Even if the inflation rate decreases, it is still strongly apparent that it is not simply that numbers are dropping: there is a dramatic drop in value. I am advised that the drop agreed to in this agreement is equivalent to a 50 per cent cut by the Commonwealth in its funding for public housing. That is atrocious, and it should attract the condemnation and scorn of all genuine Labor supporters throughout the country. It really leaves the State in a parlous situation, where it will have to increase dramatically the contribution it makes for the State even to try to stand still at 350 units per year.

So, although the Democrats support this Bill and acknowledge that the Premier managed to wrest $12 million as a one-off from the Premiers Conference in recognition of the fact that we are really going downhill in relation to public housing finance, it is still a sorry state of affairs. Of course, $12 million is welcome at any time, but in a way it is like blood money. The impression I get is that the Commonwealth knew that it was virtually squeezing public housing to the point where it was going to stall in its tracks, and this was a little trinket taken out of the Commonwealth Government's treasure chest. In Commonwealth financial terms $12 million is neither here nor there; it is a sort of sop to attempt to quieten down the sources of complaints from the State Government that it is being so badly done by.

In concluding my remarks and supporting the Bill, I repeat that we are heading for a disastrous period in the provision of public housing in this State, and the Government must look for ways and means of providing more money. I asked the Government yesterday how it intended to do that. I am very anxious to hear its answer eventually. It is probably a little much to expect the Minister who is handling this measure to answer that question for me, prodigious though I imagine her capacity to be. The fact is that I do not think there is anything in this magician's hat to pull out; in fact, there is probably a hole in the bottom. So, I cannot be optimistic. We ought starkly to address the fact that we will have many thousands—I would not be surprised if it involved 100 000 or more—of people in the metropolitan area who in the foreseeable future will virtually have to write off any chance of owning their own home through public housing. With those remarks, and in anticipation of what may happen in relation to public housing in South Australia, the fact is that the agreement is better than nothing. We had no other option and I believe the Bill must be supported.

Bill read a second time and taken through its remaining stages.

RACING (SPORTING EVENTS BETTING AND APPEALS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 9 April. Page 4152.)

The Hon. DIANA LAIDLAW: As this Bill relates to gambling it is a conscience issue.

The Hon. T.G. Roberts: Why wasn't Mareeba?

The PRESIDENT: Order! It is irrelevant.

The Hon. DIANA LAIDLAW: In terms of gambling and conscience, it was interesting that the Attorney-General mentioned this morning that it would be a conscience issue if gaming machines go out to licensed premises, hotels and clubs and yet I recall the Minister talking about gaming machines in the Casino debate, saying that it was not a conscience issue. There seems to be some contradiction in the Labor Party on gaming machines.

The PRESIDENT: Order! We have a Bill before us.

The Hon. DIANA LAIDLAW: The Bill is about gambling. I was distracted. This is definitely a conscience issue for members of the Liberal Party. As in other issues of gambling members of the Liberal Party have a variety of viewpoints on extending gambling facilities and opportunities in this State. On behalf of the majority of members of the Liberal Party I support the Bill. Many have kindly indicated to me their feelings on this Bill. The racing industry is most important in this State being the third largest industry. It is important in terms of both employment and economic benefit. I know that the Hon. Ron Roberts is keen on the racing industry, in particular the trots. It is not an area in which I am interested, but racing in general I have attended at times and have taken an interest in the people involved with the breeding of fine horses in this State, and South Australia has excelled in that regard. It is a complex and important industry and the Bill seeks to revitalise one part of it, namely, bookmaking facilities at the courses and TAB facilities elsewhere.

Bookmakers have been struggling for survival for some time, and in recent years their numbers have declined alarmingly from 300 to about 74 to 80. Over that period bookmakers' turnover has also dropped from $228 million in 1985-86 to $150 million in 1989-90.

In hotels the TAB has proven to be a great success, which is one of the reasons for the decline in bookmakers' turnover and, in fact, in the number of bookmakers. In association with bookmakers the Government has looked at the problems faced by them and at options for improving viability within the industry. I have not seen the working party report to which the Minister refers in her second reading explanation but note, however, that she mentions the provisions in the Bill allowing bookmakers to offer betting services on approved sporting events as recommended by the working party established by the Government to examine the viability of licensed bookmakers.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: That is one of the difficulties. I am not sure who was on the working party that made the recommendation and have not seen a copy of the report. The shadow Minister, the member for Morphett in another place, also has not seen the report. I do not know whether the report recommends this move only or recommends others with respect to the viability of bookmakers. Based on the Minister's second reading explanation it would seem that this is a key recommendation. Alternatively, it was the only recommendation that the Government was prepared to accept.

The majority of members of the Liberal Party in this place are prepared to accept the extension of sports betting to the racecourse. However, we question what, if any, success it will have in helping bookmakers survive. Most of us suspect that it will have very little and that of the 74 to 80 bookmakers perhaps only eight will take it up. They may be the eight biggest bookmakers so, in terms of the viability of the industry, it does not look a promising initiative. The Liberal Party will move amendments to the Bill, the first relating to the manner in which betting on sports can be an approved activity in this State.

The Bill provides that, other than the Americas Cup, cricket and the Grand Prix, which are covered in section 84 (1) of the Act, all extensions of betting on sports must be approved by resolution of both Houses of Parliament. The Government intends to remove that provision. The Liberal Party does not accept that we should get rid of all oversight by Parliament of the Minister's actions in this regard. Gambling is considered by many people in the community to be a controversial practice. Recent extensions of gambling in South Australia—whether it be club keno or, more recently, video gaming machines in the Casino—have been controversial matters not only in their own right, but in the manner in which they have been introduced.

Members may recall that club keno was secretly introduced by the Lotteries Commission. One only learnt about the move by reading the annual report; there was no public announcement. As regards video gaming machines, there was a decision one day by the Minister of Finance to issue a regulation. That regulation was debated in this place. It was ultimately not disallowed, but again it was a matter of debate in the other place.

The extension of facilities for gambling and the manner in which they have been introduced has been a controversial subject in recent times. In that climate, particularly when many people are economically and socially vulnerable, it is unacceptable for this Parliament to provide no oversight of the Minister's actions. Therefore, I shall be moving amendments to provide that, where there is to be any extension of sports gambling, the Minister must seek to do this by regulation.

That would provide members in this place with an opportunity to debate the initiative. It may not be debated prior to a particular race, but at least the Minister will know that there is the potential for parliamentary scrutiny and debate if not prior to the event, certainly after the event. That may mean that if there is a disallowance motion it would not be encouraged beyond that one occasion. To get rid of all oversight by or accountability to Parliament is unacceptable. That is the view of all members of the Liberal Party. There must be some check and balance.

I shall also be moving amendments in relation to the Government's turnover tax at 2.25 per cent. That is the rate at present for the TAB and bookmakers on all horse races and the like. As I indicated earlier, bookmakers are suffering quite considerably. We believe that if the Government wants to help bookmaking in this State, the best move would be to reduce the turnover tax to 1.75 per cent, which would be more in line with what applies in other States. I understand that sports betting is offered in Victoria, Queensland, Tasmania and the Northern Territory. If we are to follow suit in terms of what happens in those other States, we should follow suit in terms of the turnover tax. If one is not convinced by arguments of consistency in regard to taxation measures, it is fair to say that the lowering of the turnover tax rate, which is essentially motivated to help bookmakers, would be the most productive and positive measure in this Bill, particularly in terms of my amendments.

I simply repeat—I will speak to the amendments at greater length later—that the extension of betting is a conscience issue for the Liberal Party. However, we are united in our view that there must be greater scrutiny of the Minister's actions in terms of extending sports betting at racecourses and at the TAB on future occasions, and we are also united in the view that the turnover tax on bookmakers should be reduced to 1.75 per cent.

The Hon. K.T. GRIFFIN: The Hon. Ms Laidlaw has indicated that this is a conscience issue for members of the Liberal Party, because it relates to an extension of gambling activity. Members on this side have a variety of views on the desirability of the extension and forms of gambling. I suspect that that position applies also to members on the Government side, but individual members are not given the freedom to express their point of view publicly, unlike Liberal members, unless I am mistaken and all the members of the Labor Party wholeheartedly support extensions to gambling activities.

My views on the extension of gambling services are, I suspect, pretty well known, because, since the principal Act was amended to allow gambling on events such as the Grand Prix, international cricket and even the Bay Sheffield, I have consistently stated that I do not support the extension of gambling activities. As I recollect, there was a motion before the Parliament which would allow the TAB to become involved in Footybet. My strong view is that there is already an extensive range of gambling activities available to members of the community, and the State Government is involved in the promotion of gambling through the legislative process but more particularly through its agencies, such as the Lotteries Commission, the Adelaide Casino and TAB.

The Hon. M.J. Elliott: People are marching in the streets demanding more.

The Hon. K.T. GRIFFIN: I cannot see people marching in the streets demanding more. I can see that Mr Bannon is seeking to lead the Government into more fascinating ways of raising revenue to meet the State's depleted budget. One gains the strong impression that, as a result of the decision to introduce gaming machines into the Casino and last week's announcement that the Government would sup-

port the introduction of gaming machines into licensed premises and clubs, the Government must be trying to emulate the Victorian Government by having a gambling-led economic recovery. Apart from raising taxes—

The Hon. Diana Laidlaw: It is a gamble in itself.

The Hon. K.T. GRIFFIN: It is a gamble in itself, as my colleague the Hon. Ms Laidlaw says. But with the focus on new forms of gambling and the extension of gambling, it is quite obvious that it is not so much to satisfy the desire of members of the community, but more to satisfy the requirements of the Treasury.

As a member, I regard myself as having a duty to represent various points of view in the Parliament and, whilst I was in favour of the extension of gambling activities—but without that necessarily being a view positively in favour yet not opposed—many in the community have a contrary view to the largely government majority that gambling ought to be extended, because it opens opportunities for people who can ill-afford the consequences of gambling decisions.

When we were debating the motion for disallowance of the regulation relating to video gaming machines in the Adelaide Casino, I indicated that there is extensive evidence from interstate and overseas that the ready availability of gambling opportunities creates hardship more for people who cannot afford it, and also for those who might become addicted to it. There is very extensive evidence that the more accessible gambling opportunities are, the greater the level of addiction.

Of course, notwithstanding the extensive revenue which the Government receives from gambling activities (about $128 million is projected for the current financial year), it has not provided any facilities for dealing with the effects of compulsive gambling, nor has it even gone so far as to honour the commitment given in 1983 on behalf of the Premier that an inquiry would be made into the effects of gambling in this State. I suspect that the Premier is afraid of the consequences of that inquiry and the impact that it would have on his own 'Mr Nice Guy' image. Apart from everything else, I think the about-face that he demonstrated last week in relation to poker or gaming machines was enough to severely batter the image which he has developed over the past few years. He demonstrated a remarkable about face after some 15 or more years of opposition to poker machines or machines akin to poker machines.

I am concerned at the way in which this Bill is drafted in that it will enable the Minister, by notice published in the *Gazette*, to 'approve a sporting event (whether held within or outside Australia) as one on which bets may be made with bookmakers in accordance with this Part' and to 'vary or revoke a notice under this subsection.' It is an uncontrolled responsibility and opportunity for the Minister, not subject in any way to parliamentary scrutiny and rejection.

The existence of the power in the Minister would potentially lay a Minister open to corrupt activities because the opportunity to extend gambling always has a price. For that reason and that reason alone, I suggest that it is undesirable for a Minister to be given the power merely by the stroke of a pen to approve a sporting event for gambling purposes.

In addition, it is also undesirable, because there is no check on what sporting events might be approved by the Minister, and community concern could well be expressed about any decision by the Minister, for example, to allow betting on the head of the river or other activities where the promoters may have no desire at all—in fact, may have a positive wish not—to allow gambling on those events. The experience is that once substantial money and gambling on sport is involved, the potential is increased for corruption, as well as for the whole concept of a sport to be substantially distorted. Of course, that has always been my concern with events such as the Bay Sheffield, the cricket, the Grand Prix and football: once gambling is allowed on events, on individuals and on teams it takes on a whole new perspective as far as the relationship of that sport, particularly to young people, may be concerned. I do not believe it sets a good example, but that it encourages undesirable practices.

The other aspect is that by the very fact of allowing gambling on sporting events or even other forms of gambling, as with the Casino and the Lotteries Commission, even the TAB, there is a much more positive incentive for those who promote those activities to advertise and for such advertising to go to extreme lengths to promote the desirability of gambling as much as anything else. We saw that with the Casino's advertisements in the interstate press only several weeks ago in some quite extraordinary advertising about the benefits of coming to the Adelaide Casino and wagering with the prospect of a child's education as the stake at the end of the gamble. I think that is undesirable.

Members may recall that I raised a question with the Attorney-General today about some of the terms, conditions and procedures that might apply to the introduction of video gaming and other gaming machines into licensed clubs and hotels, and I was interested to note the response that no decisions had yet been taken and that, in the drafting of the legislation, these matters would have to be considered. However, it seems to me again that in that respect the ready access to gambling, the monitoring and the surveillance brings gambling much closer to ordinary people and particularly to young people who will and do have access to facilities such as clubs. I indicate therefore that I do not support those parts of the Bill that seek to extend gambling. However, I will be prepared to support amendments moved by my colleague the Hon. Diana Laidlaw to improve the Bill to bring in more constraints. That is the responsibility we have, even though we may not ultimately support the legislation, and I will support the reduction in the tax that is provided in the Bill.

However, even if those amendments are passed, I can indicate that whilst I will not oppose the second reading, if the approved sporting events are included in the Bill, I will have no option but to oppose the third reading, consistently with the view which I have held over a long period of time and which I have expressed publicly in this Chamber and outside this Chamber in respect of an attitude towards the extension of gambling opportunities in this State.

The Hon. R.J. RITSON: I recall that when this matter was last before this Chamber members on this side at that time had a consensus that any extension of the action of the TAB into other areas of gambling ought to be in the principal Act, and in that we must have been joined by the Democrats for it to have become law. Since then, the Liberal Party's attitude has bent a little, but not enough for us to be prepared to see an open slather by ministerial fiat. Personally, I believe that we should still require new forms of institutionalised Government gambling to be in the principal Act, and I am only half happy with the position of my Party that regulations are good enough. We have already seen on many occasions the difficulties that Parliament has in overseeing with any adequacy at all the process of subordinate legislation and, indeed, the changes to the oversight of subordinate legislation introduced this very day by the Attorney-General are at first reading similarly inadequate, so I guess in the future there will not be provisions with

any more teeth in parliamentary oversight of the regulation-making power.

So, I will certainly support that part of the amending process that deletes the wording of the extension in the amending Bill, perhaps with some misgivings, because in practice the Liberal Party's compromise to its previous position is probably the only attainable change. I will also support the provision of regulatory supervision. I remind the Democrats and my colleagues that when this matter was previously before the Council we believed that each extension should be in the principal Act, and that principle did become law then.

In the eyes of the Government there is no such thing as a moralistic (and by that I do not mean 'religious', but a commitment to doing the right thing) attitude to gambling. Good gambling is legal gambling, that is, gambling that has been taxed, and bad gambling is illegal gambling, that is, gambling that the Government has not discovered how to tax. As my colleague the Hon. Mr Griffin said in his discussion of this matter, in all areas of revenue collection, the Government is reviewing ways in which it can claw back out of the citizens of this State some of the disastrous losses associated with the State Bank. There have been many examples of this claw-back function in other Bills and regulations in recent times.

In the mind of those in the Government, it may not be enough for them simply to extend the forms of gambling which will be taxed or garnisheed via the Government agency, the TAB—its quango. Maybe all the things they could think of listing now to include in the principal Act will not be enough. Maybe it wants a blank cheque so that everything they can think of will be added to the list of forms of gambling which can be taxed and which, therefore, will be legal.

Really, my objection is, if you like, to the intertwining of what some people would see as a freedom to bet on anything and what I see as being the liability to be taxed in all manner of ways not yet thought of. That is a sad thing because of the very serious position of the State and the nation in terms of both the local and world economies. We do not in fact have a situation where suffering and poverty is hanging over the head of many of our citizens in many ways. The very difficult solutions involving productivity, new markets and perhaps more work for the same pay—these things which have to be done to forestall our collapse into poverty—are not really being done: but, rather, the fool's paradise is perpetuated by Governments, with a bread and circuses mentality. Every bit of hedonistic spending which produces a circle of transfer payments and no productivity is another twist in the downward spiral of the economy.

I do not have any particular moral or religious objection to gambling *per se* but I see this extension of forms of gambling as a part of the hedonistic smokescreen, the bread and circuses Government, the request to this Parliament for an open cheque to tax many things yet unthought of. As a Party, we should have come to the consensus, as we did previously when this legislation was before the Council, that the Government should be prepared to enact in the principal Act specifically those items which it wished to add to the list of activities that were taxed.

I will be supporting the amendment to reduce the turnover tax for on-course bookmakers. The TAB really was a blow to racing. Those members of our society who have a genuine sporting love of horseracing and the colourful surrounds of that sport, including spending on wagering with on-course bookmakers and the spending that goes with other amenities at the racetrack, have really been sold a pup by the Government which, in fact, through the taxation effect of the TAB, returns substantial amounts of money to the racing industry, but it is only returning what it has stolen. It is steadily replacing the bookmaker and the colour of the whole package of going to the races, which people have enjoyed as horse lovers, with a series of grotty betting shops and, more latterly, a series of whirring machines in the front bar of pubs, with old Fred, four sheets to the wind and his glass of beer, putting the rest of the housekeeping money through the machine, thereby being taxed again by the Bannon Government. Consistent with the longer term trend, the industry and the sport continue to struggle, particularly in this State, with respect to attendances and prize money.

So, I would support a measure that would give some encouragement to racetrack attendance, racetrack colour and the totality of racing as a sport but, as I say, as far as using the TAB to tax new activities as yet unthought of, I would have much preferred to see the Government's specific aims in the principal Act. Just as a gesture, I may vote with the Hon. Mr Griffin at the third reading, but with the numbers as they are I expect the Bill will pass, in some form. I do hope that the Democrats, remembering the support they gave members on this side of the Chamber the last time the Bill was before us in the proposition that the specific extensions must be in the principal Act, if they will not support that proposition now, they will at least support the proposition that they be in the regulations and not left to the fiat of the Minister of the day to tax the fad of the day, whatever that may be on the day.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE (MISCELLANEOUS POWERS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

STATUTES AMENDMENT (CRIMINAL LAW SENTENCING) BILL

Returned from the House of Assembly without amendment.

[*Sitting suspended from 5.59 to 7.45 p.m.*]

RACING (SPORTING EVENTS BETTING AND APPEALS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).
(Continued from page 4355.)

The Hon. M.J. ELLIOTT: Although the Hon. Mr Griffin and I started from a different philosophical starting point, I believe that we have come to the same conclusion about the amendments to the Racing Act. A number of the amendments are of no great consequence, but a couple have caused me real concern. The amendments to which the Hon. Mr Griffin alluded, together with other members of the Opposition, are those that look at the further extension of gambling opportunities in South Australia.

I have been on record in this place on a number of occasions expressing concern about what is happening in

regard to gambling. I make it quite clear that I support legal gambling, but that support is qualified. I see a vast difference between allowing and regulating gambling and the present State Government's attitude of the active encouragement of it. I am philosophically very much a libertarian, and that is very much the view of my Party. I do not think that it is sheer coincidence that the Hon. Mr Gilfillan is looking at prostitution laws and that I have urged a review of drug laws, but in neither case do we believe they should be given open slather.

If we look at the approach that we take to matters such as alcohol and tobacco, in my view, there is a vast difference between allowing something to be used in a society and positively encouraging its use. Obviously, that is not a view shared by the Government. I believe that South Australia is caught in a dangerous trap where Government revenue from gambling is reaching quite staggering proportions. It could reasonably be argued that the Government is addicted to the gambling dollar. Of even more concern is the increase in the vested interests that are dependent upon it. We have the massive bureaucracies of the TAB, the Lotteries Commission, the Casino (and, through the Casino, SASFIT) and now hotels through the operation of TAB agencies.

Gambling has become very much entrenched in our society, and the lobby that has been produced is almost immovable. Recently, the Premier indicated his intention to allow gaming machines into hotels, a move that was quite predictable at the time that this place voted to allow gaming machines into casinos. Since 1985-86, the Government's revenue from gambling has increased from $54 million to an expected $128 million in 1990-91, an increase of 129 per cent in just five years.

Gaming machines in the Casino will provide at least a further $10 million and when they are introduced into hotels a further $40 million will be gained. This Government, which has been unwilling to raise taxes, seeks extra dollars through gambling. Rather than catering for gambling whenever returns diminish deliberate attempts are made to stimulate it. There are countless illustrations of this and members just need to go through their own memories to come up with them.

When public interest waned in the small lotteries that were first introduced in South Australia, the Government brought in large lotteries and, as they began to wane, in came X Lotto. Then mid-week X Lotto was introduced, followed by Super 66, and then the Government started introducing all sorts of novelties such as computer pick, system entries, etc. The novelties are all aimed at stimulating interest to keep the dollars turning over.

The Casino sought gaming machines because its revenue had plateaued out and there was starting to be a decline in interest. So, rather than just catering for gambling, which the people wanted, the Government set about deliberately further stimulating it. When the TAB began it catered largely for win and place bets on three racing codes, then there were doubles, trifectas, fourtrellas and quinellas. The Government keeps on coming up with new systems to, once again, stimulate flagging interest.

In recent years it has expanded gambling to include other sports—something which this Chamber agreed to. That brings me to the current Bill. We are now being asked to give the Minister unlimited discretion to allow gambling on almost anything. Under the Bill as proposed it would be possible to bet on the proverbial flies on the wall and for Government revenue to benefit from that event.

I do not see gambling as immoral, but I do see this Government's attitude as immoral, and I think there is a very clear distinction between the two. I believe that this Government, in its stimulation of gambling, is acting in an immoral fashion. It is behaving with reckless disregard for the consequences of its actions. The Democrats will not be party to this sort of behaviour. Although the dollars that will come to the Government out of this particular expansion may be fairly small bickies by comparison with the gaming machines, I still think that the point needs to be made. The Democrats have not forgotten what they have said here on previous occasions, and we did not need to be reminded by the Hon. Dr Ritson. We are quite willing to oppose these clauses outright. We do not necessarily even see a need to amend them. We are willing to take a stand, and have been willing to take a stand in the past—a stand not of wowserism but of concern for our society, of concern about a Government that is clearly misbehaving in this area, and misbehaving very badly.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak only briefly to the Bill that is before us. I support the legislation. This afternoon I took the opportunity to go back through some of the previous Racing Act Amendment Bills that have been debated during my seven or eight years in Parliament. I went through Bills in respect of things like the Bay Sheffield, Footybet and a whole range of other things. My position on all of those has been consistent in that I have supported the extension of gambling options for South Australians through my eight or nine years in the Parliament. My position remains the same.

As my colleague the Hon. Trevor Griffin indicated earlier this afternoon, it is one of the beauties of the Liberal Party that it has this very strong divergence of views that are allowed to be expressed on conscience issues like all the gambling Bills that have come before the State Parliament. I will quote briefly from the contribution that I made in 1985 in relation to legislation concerning Footybet. At that time I said:

> I support initiatives to widen the scope for betting in South Australia. I hope that we can come up with something with regard to the Grand Prix which we have here in November, and if all goes we will have it for seven years after November of this year. I would not be averse at all to the situation of Ladbrokes in London, which bets on virtually anything.

As I said, my view has been clear and consistent over the past eight or nine years in this Parliament, and I intend to continue to support extensions to gambling options in South Australia.

In relation to the key issue, whether it be by regulation or proclamation that we see this further extension, I indicate that at least on this occasion I am prepared to support the intent of trying to make it by regulation, but for differing reasons from some of my colleagues. I must say that I have some concerns about that. If some of the potential problems were to eventuate, I may well reassess my position—if at some stage in the future Parliament had to again address the issue.

I appreciate that a number of my colleagues will see, in the option of regulation, some protection for the sorts of views that they put to the Chamber this evening. I suspect that there is probably an opportunity for a majority view on that particular amendment, perhaps to be expressed during the Committee stage. I indicate that I am prepared to support that, at least on this occasion.

As I said, there are some potential problems with it. In particular, if one were to get into the situation of a disallowance motion, as we had in relation to the Casino, where it could drag on for some eight to nine months from, say, August in one year through to, say, April in the next year, or if one wanted to extend sports betting for a function or a sport in December of a particular year, there would be

major problems for administrators in trying to second guess whether or not that disallowance motion would be successful, as indeed the Casino had problems in anticipating whether or not the disallowance motion would be successful in relation to video gaming machines. That is a potential problem, but I will support the amendment in Committee, and I will support what it decides and the passage of the Bill.

The Hon. BARBARA WIESE (Minister of Tourism): The Hon. Diana Laidlaw, in her contribution, indicated that she was not familiar with either the membership or the recommendations of the Bookmakers Viability Working Party which was established some time ago. It may be helpful for me to indicate that the working party had a membership of six members and was chaired by Mr Ron Barnes, who is the former Under Treasurer. The working party had a person representing the bookmakers, a representative from the Department of Recreation and Sport, a representative from the Treasury Department and a representative from the racing codes. The working party made recommendations to the Minister in respect of sports betting, place and multiple betting, improved facilities for bookmakers, and that consideration be given to telephone betting for bookmakers.

I refer briefly to a point which has been recurring in this debate and which was made most by the Hons Griffin, Ritson and Elliott. They suggested that somehow this was designed to be a revenue raising measure for the State Government. If they call $15 000 a year revenue raising, I suppose it could be described as that. Although the State finances are under considerable—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —pressure at this time, I do not think that anyone in their right mind would describe this as a revenue raising measure for the State Government in view of the size of our overall budgets. I would also like to report to members that this measure has not been pursued as a Government initiative: it has been pursued as a request from bookmakers. It was initiated by bookmakers in South Australia, and it is a matter in which the Minister concurred; and he pursued legislation to bring it into practice. No doubt there will be further opportunity to explore issues during the course of the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: The Minister in the second reading stage indicated that the Government envisaged that $15 000 would be raised from the extension of gambling opportunities to bookmakers at the courses. On what basis has the Government reached that figure? Is that for the remainder of this financial year, from the day when the Act is proclaimed until 30 June or is it for a full year, and on the basis of how many bookmakers participating in this scheme?

The Hon. BARBARA WIESE: The approximate figure of $15 000 is an annual figure, which would be for a full financial year. That is estimated as the Government's share of the return from this measure. The Government's share of the proposed 2.25 per cent would be about .85 per cent. The individual sports concerned in this would take 1.4 per cent of the tax turnover.

The Hon. DIANA LAIDLAW: If the Government is realising $15 000 from a .85 per cent share, what is the turnover envisaged, and on the basis of how many bookmakers participating in the scheme?

The Hon. BARBARA WIESE: It is expected that about 15 bookmakers in South Australia are likely to be interested in participating in such a scheme, and the figures are based on a total turnover of approximately $2 million per annum.

The Hon. DIANA LAIDLAW: In her summing up speech the Minister mentioned the working party, and I thank her for those details. Is the working party's report a public report; can it be tabled at some stage, particularly if we are to sit tomorrow? Also, was the number of 15 bookmakers an estimate from the working party's recommendations? I note that the member for Morphett, as shadow Minister of Recreation and Sport, is of the very strong view that it will be eight at the most, if that.

The Hon. BARBARA WIESE: I am advised that the report of the viability working party was not intended to be a public document but was a report for the Minister. As I understand it, it is not his intention to make it publicly available. The estimate of the number of bookmakers who are likely to participate in this scheme is an estimate that has come from discusssions that have occurred in the past couple of weeks or so with members of the Bookmakers Licensing Board. It is the estimate that they believe is around the mark.

The Hon. M.J. ELLIOTT: When I had a briefing with the Government people yesterday or the day before I gained the impression that there would be a turnover of $2 million from these additional gambling opportunities. I obviously misunderstood it and thought that the TAB would be exercising the same betting options. If that is not the case, has there been an estimate about what turnover the TAB might hope to get if it extends into these other sporting opportunities?

The Hon. BARBARA WIESE: I understand that there has been no request from the TAB to extend its betting options.

Clause passed.

Clauses 3 to 5 passed.

Clause 6—'Power of board to conduct totalisator betting on other major sporting events.'

The Hon. DIANA LAIDLAW: I move:

Page 2, line 8—Leave out all words in this line and insert:
6. Section 84i of the principal Act is amended—
(a) by striking out paragraph *(d)* of subsection (1) and substituting the following paragraph:
(d) may conduct totalisator betting on any other sporting event or combination of sporting events (whether held within or outside Australia) prescribed by regulation;
and
(b) by striking out subsection (2).

The Government seeks to strike out subsection (2) of section 84i which provides:

The approval of the Minister shall not be granted under subsection (1) *(d)*, except in pursuance of a resolution passed by both Houses of Parliament.

In isolation, subsection (2) does not make a great deal of sense. It relates to the further extension of gambling activities conducted by the Totalizator Agency Board. When this section was introduced in 1986, as a number of members have mentioned, it was the view of the majority of members of this Council (and certainly the majority view of this Parliament) that, if there was to be any further extension by the TAB into other gambling arenas, the approval of both Houses of Parliament was required. The Minister now seeks to get rid of that requirement a mere five years after Parliament expressed its will on that matter. The Liberal Party does not accept that the Minister should be provided with unlimited power to determine—

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: No. This is the view of all Liberal members of Parliament that the Minister should not have unlimited power to determine at will which new gambling arena the TAB should be allowed to enter in the future. We believe that there should be some checks and balances in this field and, therefore, my amendment seeks to provide that any further extension in this area should be by regulation which, in turn, would be the subject of review by the Subordinate Legislation Committee of this Parliament and subsequently, if it was seen as necessary, subject to disallowance in this place.

That would at least provide members of Parliament with an opportunity to voice their approval or disapproval of, first, the extension by the TAB into a new area of gambling or, secondly, the specific field that has been nominated by the Minister. There are two matters there. It may be, as has been argued by the Minister in another place, that he or she may wish to give approval to extend the range of TAB activities well before Parliament has an opportunity to consider the matter. That argument may have some merit, but I also believe that the very fact that at some stage Parliament will consider the matter that the Minister has under review, and may wish to approve, should restrain him or her, or should at least require the Minister to think again about the matter. It may be that if approval is granted with the opportunity for disallowance by the Parliament it would be allowed for one year only or for one occasion in that year and not *ad nauseam* or many times each year.

I re-emphasise the reservations that the Liberal Party has in this area. I note that, in speaking to this matter, the Minister in another place—the member for Unley—seems to believe that we should have total faith in his judgment, and he has sought to reinforce that by indicating that he would move to use the provisions in this Bill only if the sport concerned had been consulted and had agreed. If the sport did not agree, he would not move. I do not think that that is a reasonable argument to support what the Minister and the Government wants to achieve with this Bill, because there are many occasions when a sport can be quite desperate, for a whole range of reasons, either to prove its profile or to gain some of the limited sums that the Minister has advised will flow to the sport from these activities.

The sport itself may have reasons that the community believes are totally unacceptable. I, and I think all but one of my colleagues, believe that it is absolutely unacceptable to provide for the Minister and the sport concerned to have unchecked powers in this area, particularly as it is such a radical change from what the Parliament accepted a mere five years ago; that is, that any such extension should be by a resolution of both Houses of this Parliament.

The Hon. BARBARA WIESE: Not surprisingly, the Government opposes this amendment. It is sometimes said that a week is a long time in politics. If that is so—and I think we all probably agree with that point of view—then five years is several lifetimes. It is true to say that during the past five years, since this matter was last considered by the Parliament there has been quite a shift in public attitude to various gambling issues. During that time we have seen the advent of club keno, the introduction of video gaming machines into the Casino and various other measures, which have general community support. It is not a particularly good argument to say that this matter was dealt with by the Parliament some five years ago and that is where it should rest. There has been a shift in community opinion and it is reasonable that this matter should be examined again by the Parliament in the context of the measure that is currently before us.

The Government believes that this amendment would be administratively inefficient, and certainly the example presented by the honourable member regarding the delays that would be involved in processing an application for betting on a particular event, should it have to go through the regulatory process, could in fact mean that by the time we were able to do that the event might well and truly be over. Therefore, the public and bookmakers would not have had an opportunity to participate in betting on that event. So, the Government considers that there should be greater flexibility in the system in order to allow applications to be considered on their merits and in time for particular events to be held.

There is the safeguard in the legislation that was also referred to the Hon. Ms Laidlaw (or at least a safeguard is that given in the remarks that have been made by the Minister in another place) namely, that it is not intended to allow betting on particular sporting events to occur if, in the opinion of the local controlling authority, any sporting organisation involved objects to the principle of bookmakers providing a betting service on their activity. It is always the intention that their wishes will be respected and that betting in those circumstances will not be allowed.

Therefore, we are talking about a betting service that will provide to the public an extension of services which have been shown to be popular and wanted. It is certainly a measure that has the support of bookmakers—indeed, it has been requested by them—and it will occur only with the agreement of the appropriate sporting organisations. So, I cannot see that in those circumstances there can really be grounds for regulation, particularly in a climate where everyone at other times is advocating greater deregulation in Government areas. I believe that the provisions outlined in the Bill are appropriate, with the safeguards that have been promised by the Minister, and I urge the Committee to oppose the amendments.

The Hon. R.J. RITSON: I have a few short, simple questions. The Minister stated a matter of minutes ago that the revenue collected under this measure would be approximately an additional $15 000, and she said that—correct me if I am wrong—on the basis that that was to be collected on the turnover of a small number of bookmakers who would take advantage of the extension, there was no estimate of additional revenue collection by virtue of the TAB extending its activities, that the change was initiated by those bookmakers at their request, and that there had never been a request or an expression of interest by the TAB for extended betting. That is what I gathered from the Minister's remarks. If that is so, why does the amendment potentially extend the TAB's powers in this way? In other words, why did she not have the amending Bill drafted in terms that applied only to the on-course bookmakers?

The Hon. BARBARA WIESE: It was the view of the Government on advice that, if there was going to be an open-ended provision to allow bookmakers to provide a betting service on sports of any kind, it was reasonable for consistency to also have the same provisions applying to the TAB, even though it has not requested an extension of its services. However, for the purposes of consistency in the legislation, it would be reasonable to have an open-ended policy for the TAB as well as for bookmakers. There is nothing particularly unusual about that. It is simply making the provisions of the legislation consistent for the two groups that may be providing a betting service for the public.

The Hon. R.J. RITSON: Will the Minister state again clearly on the record the Government's official view that there has not been any request or expression of interest by the TAB in having the extended betting apply to it, this

measure having been requested only by the on-course bookmakers? I want her to put that Government statement on the record quite clearly in case we misunderstood her. Given that that is the case and that she is not accidentally misleading us, will she reassure us that about $15 000 in the first year will be collected and that that amount will not vary by several orders of magnitude? Finally, why does she expect the Parliament to give a Minister powers that have not been sought and will not, according to her, be used?

The Hon. BARBARA WIESE: I find it rather peculiar that I am asked to repeat things that I have already said. However, if it makes the honourable member feel better, I will be happy to repeat what I have already said. I am advised that the TAB has not made any request whatsoever for an extension of the betting services on sports over which it does not currently have power. The requests that have led to this legislation have come from bookmakers who wish to provide an on-course betting service on sports.

The Hon. R.J. Ritson interjecting:

The CHAIRMAN: Order!

The Hon. BARBARA WIESE: I repeat that it is estimated by the Government that in a full financial year it will receive approximately $15 000 in revenue from the proposed extended betting service to bookmakers, which is a very small amount in anyone's language, and reinforces the sincerity of the Minister's argument that the service can be extended at the request of the industry and to satisfy public demand for such a service. There is not much in it for the Government. I am not sure how much clearer I can be about those matters. I hope that I have answered the honourable member's question.

The Hon. M.J. ELLIOTT: I indicated during the second reading stage that I would effectively oppose this clause, but in the interim I shall be supporting amendments which allow regulations to give this place purview over any changes. It is amazing that significant sections of the Bill originated from a report that we were not allowed to see. The Government was not interested, but, as it is now going to do it, it might as well let the TAB do it, too. Even though it does not want it, it does not want the Parliament to be in a position to restrict anything that it might want to do. It is an absurd proposition. I am afraid that this Government cannot be straight on too many things. Not long ago it redefined gaming machines in the Casino in such a way that it could bring in things which it said were not games of skill or of luck. There was a lot of game playing with that as well. Quite simply, the Government cannot be straight with us. It does not have a very good record on this issue. I would not trust the Government, because it is not trustworthy on this issue.

The Hon. R.I. Lucas: We need a new Government.

The Hon. M.J. ELLIOTT: I am doubtful about that, too. That is the other side of the coin. Heads you lose, tails you lose.

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: Order!

The Hon. M.J. ELLIOTT: It may indeed be small bickies. I made that comment during the second reading stage. The sums will appreciate significantly when the TAB goes into other forms of gambling, which it will. Every potential corner into which it can get to expand its business it will get into. It has the record; it has done it. If it does not do it within six months, I shall be most surprised.

The Hon. R.J. Ritson: Possibly the bookmakers don't even know.

The CHAIRMAN: Order!

The Hon. M.J. ELLIOTT: We will not go into that. In any event, I think that a stand has to be taken. As I said before, it is not against gambling; it is against the attitude of this Government.

The Hon. Mr Griffin mentioned an inquiry that was promised to look into the effects of gambling. It never happened. How can a Government which is making $128 million a year out of gambling, when there are significant reports from bodies like SACOSS saying that it is causing harm, in all conscience not carry out such an inquiry and go about trying to introduce further gambling without reviewing the situation? This is an immoral Government.

The Hon. DIANA LAIDLAW: The Minister said that a request by the bookmakers led to this legislation. I notice that she emphasised 'legislation', not this amendment. I should like to clarify whether the working party argued for, recommended or even made any comment about the extension of sports betting to the TAB. I appreciate her earlier statement that the bookmakers' viability working party recommended such a course for bookmakers. What references, if any, were made about the TAB?

The Hon. BARBARA WIESE: As the name implies, this was a bookmakers' viability working party. It was not concerned with the work of the TAB, it did not consider the work of the TAB and it did not make any recommendations regarding this matter and the TAB.

The Hon. K.T. GRIFFIN: As I said in my second reading speech, I will certainly support the amendment moved by the Hon. Diana Laidlaw, but, as a matter of conscience, I cannot accept the amended clause.

The Committee divided on the clause:

Ayes (7)—The Hons T. Crothers, Anne Levy, Carolyn Pickles, R.R. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese (teller).

Noes (10—The Hons J.C. Burdett. Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, Diana Laidlaw (teller), R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Majority of 3 for the Noes.

Clause thus negatived; new clause inserted.

Clause 7—'Interpretation.'

The Hon. DIANA LAIDLAW: I move:

Page 2, lines 12 and 13—Leave out all words in these lines and insert—

'approved sporting event' means a sporting event or combination of sporting events (whether held within or outside Australia) declared by regulation to be an approved sporting event for the purposes of this Part:;.

Essentially, this amendment is consequential. It redefines 'approved sporting event', and emphasises the need for a regulatory process rather than that as the Government would propose, an approved sporting event means a sporting event approved by the Minister under subsection (2), which is a matter that I will be addressing in a few moments.

The Hon. BARBARA WIESE: This matter is consequential on the matter that we have just debated and, for the same reasons, the Government opposes this amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 2, lines 16 to 23—Leave out all words in these lines.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 8 to 10 passed.

Clause 11—'Permits for licensed bookmakers to bet on racecourses.'

The Hon. K.T. GRIFFIN: It seems that this is one of the substantive clauses of the Bill that allows permits to be issued for licensed bookmakers in relation to approved races or sporting events and where the definition that has just been inserted becomes relevant. It seems to me that that does have the effect of extending the range of gambling activities and, for that reason, I will oppose the clause.

The Hon. M.J. ELLIOTT: For the same reason, I will also oppose the clause.

Clause passed.

Clause 12—'Operation of bookmakers on racecourses.'

The Hon. K.T. GRIFFIN: For the same reason, I oppose this clause.

The Hon. M.J. ELLIOTT: Ditto.

Clause passed.

Clause 13—'Payment to board of percentage of moneys bet with bookmakers.'

The Hon. DIANA LAIDLAW: I move:

Page 3, line 14—Leave out '2.25' and insert '1.75,'.

This amendment seeks to lower the turnover tax that bookmakers will be required to pay to the Government under this legislation. The Minister mentioned in comments she made to my questions on the commencement clause that, of the 2.25 per cent turnover tax rate mentioned in this Bill, the Government would be receiving 1.85 per cent, with bookmakers returning $15 000.

According to the Government, this Bill is being promoted at the request of bookmakers on the basis that it is necessary for the viability of bookmaking in this State. It is quite apparent from the earlier debate on clause 6 that, as the Government has now provided for the TAB also to be associated with betting on sport, bookmakers will enjoy no advantage in this field. That seems to be quite a contradiction, if this Bill is being promoted, as the Government states, on the basis of the viability of bookmakers. If the Government is really genuinely interested in the viability of bookmakers, I believe very strongly, as do my colleagues, that the turnover tax should be reduced from the current level of 2.25 per cent to 1.75 per cent, and that this would provide very positive assistance to bookmakers.

In the history of turnover tax, I understand that this has been the case in the past. In 1986, the then Minister (Hon. Jack Slater) reduced the turnover tax for bookmakers and immediately the turnover of bookmakers in the ring increased as a result. That is a matter about which bookmakers have written copius letters to the Opposition in recent times. They are very keen to see the turnover tax as provided in this Bill reduce from 2.25 per cent to 1.75 per cent.

In the second reading explanation, the Minister made passing reference to this matter as follows:

The Government had consulted closely with the racing industry on this proposal. While the industry supports sports betting with bookmakers in principle, there is some debate over the rate of turnover tax and the disbursement of that tax.

So, the Minister is well aware of the matter that I have made the subject of my amendment. With respect to the turnover tax, I note that in all other States where sports betting is available, including Victoria, Queensland, Tasmania and the Northern Territory, the rate is much lower than that which applies in South Australia.

With respect to the level of 2.25 per cent, I note that this rate was established some years ago when bookmaking was a far more profitable, buoyant industry and field of endeavour than is the case today. As I mentioned in my second reading speech, the turnover of bookmakers in recent years has dropped from $228 million in 1985-86 to $150 million in 1989-90. I repeat for the last time: if the Government is really genuine rather than just mouthing words about its enthusiasm to support bookmaking in this State, it will also support this measure. Further, if the Government is genuine in its statements that it is not interested in the revenue raising capacity of this measure because it is such a pittance, the proposal that I have suggested will make very little difference to the Government, but it will make a major difference to bookmaking.

The Hon. M.J. ELLIOTT: According to figures that were mentioned earlier, a tax of .85 per cent is equivalent to about $15 000. Therefore, lowering the tax by .5 per cent amounts to something less than $15 000. If 15 bookmakers operate extended betting, after tax they will take home about $10 a week extra. Of itself, that is probably neither here nor there.

The Hon. Diana Laidlaw interjecting:

The CHAIRMAN: Order!

The Hon. Diana Laidlaw interjecting:

The CHAIRMAN: Order! The Hon. Mr Elliott.

The Hon. M.J. ELLIOTT: The reality is that the Opposition would like to see this as a precedent for reducing the remainder of the 2.25 per cent to 1.75 per cent. To suggest that this will affect substantially the viability of bookmakers in one way or another is drawing a very long bow. I cannot see any reason why the taxation level should be any different, and I will not support the amendment.

The Hon. BARBARA WIESE: I would like to make a couple of comments to correct statements made by the Hon. Ms Laidlaw in speaking to her amendment. First, she mistakenly indicated that the percentage of the turnover tax that goes to the Government is 1.85 per cent when, in fact, what I said is that the figure is .85 per cent, which amounts to approximately 15 000 per year, and 1.4 per cent goes to the sporting organisations concerned.

Secondly, the honourable member suggested that the Government had implied that this measure was essential for the future survival of the bookmaking industry. I want to make it clear that this measure alone is not likely to affect the future survival of the bookmaking industry at all; it is simply one of a number of measures which were considered by the viability working party and which were put forward by that group as part of a package of measures that would assist in ensuring the viability of bookmakers.

However, other matters were considered by the working party that would be of much greater significance in the minds of bookmakers than this particular measure, if they were predicting what might or might not affect their viability. After all, we are talking about a measure that is only likely to produce some $2 million a year in all. It is not a large measure, and issues such as the place and multiple betting issue, another matter on which the viability working party made recommendations, would be considered by them to be of much greater significance in ensuring the future viability of their industry. I just wanted to clarify those two points.

The Hon. Ms Laidlaw also referred to that part of the second reading explanation in respect of debate amongst people in the industry about the turnover tax. On reflection, it would have been more appropriate if the second reading explanation had been amended before it came to the Legislative Council, because there had been some degree of debate prior to the introduction of the Bill, for example, the South Australian Jockey Club wrote to the Minister suggesting that the amount of 1.4 per cent going to sporting organisations was not desirable. Following discussions the matter was resolved because the SAJC changed its position.

It would be true to say that, amongst the bookmaking industry, there is always some debate about the question of a turnover tax. It objects to paying a tax at all. Just as it would object to paying 2.25 per cent, it would also object to paying 1.75 per cent, as suggested by the Hon. Ms Laidlaw, because, by preference, it does not want to pay a tax of any kind. Accepting that, and also accepting that a tax of some kind is desirable, the substantive issues relating to the distribution of this turnover tax have now been resolved and it is not a matter that is subject to discussion.

Certainly the Government believes that a turnover tax of 2.25 per cent is reasonable. It is the level of taxation that is charged in Victoria and, although in some other States it is lower than that, it is considered by the Government to be reasonable. I certainly do not think that it will affect the position of bookmakers to any extent because, if one looks at what sort of effect such an amount of money would have on approximately 15 bookmakers in South Australia (based on an expected $2 million collection in betting fees), one finds that bookmakers would be better off to the tune of some $12 a week if we chose a 1.75 per cent tax rather than a 2.25 per cent tax.

There is not a great deal in it, but the Government believes that it is reasonable to stick with 2.25 per cent. As I said, it is the tax that is charged in Victoria. The Government believes it is reasonable, and we oppose the amendment. I believe that at this point the Committee should report progress. I was not aware until very late in the day that this matter was deemed to be a conscience vote for members of the Liberal Party. In the absence of that knowledge pairs were granted for parts of this evening. I believe that some of those members should be given an opportunity to participate in the debate and vote on those matters.

Progress reported; Committee to sit again.

STAMP DUTIES (CONCESSIONAL DUTY AND EXEMPTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 April. Page 4150.)

The Hon. R.I. LUCAS (Leader of the Opposition): As members would be aware, stamp duty on cheques has been abolished in a number of other States, for example, Victoria and Tasmania. The recent abolition of stamp duty on cheques in New South Wales occurred at the same time that Premier Greiner increased financial institutions duty from .04 per cent to .06 per cent. The increased take into the State coffers through the increase in FID allowed Premier Greiner to reduce State taxes in the area of stamp duty on cheques.

My advice is that at the moment in New South Wales and Victoria (the two most populous States in the nation) as well as in Tasmania, stamp duty on cheques is no longer collected. I am also advised that in South Australia the amount of revenue collected from stamp duty on cheques is of the order of $5.5 million per year. As members will be aware (and as we have debated on a number of occasions), in the last State budget Premier Bannon increased the financial institutions duty, as did all other States, but here in South Australia the increase was from .04 per cent to .1 per cent.

Whilst in New South Wales the increase in FID was offset, at least in part, by the abolition of stamp duty on cheques, here in South Australia Premier Bannon has tried—and, I guess, to some degree succeeded—to have his cake and eat it too, because not only has he increased FID by the largest amount in the nation, some 150 per cent, with significant increases in the amount of money collected in FID for State coffers, he has also retained stamp duty on cheques, which earns $5.5 million per year for the State's coffers.

That is but one further example of the destructive effect of the financial policies of Premier Bannon and his Government—the destructive effect not only on the long-suffering taxpaying community of South Australia but also on the South Australian State economy. The only mildly heartening aspect of the legislation is that clause 3 of the Bill shows at least some token effort to indicate a direction for the future, where some indication is given that a decision may be made by some future Government to remove stamp duty on cheques.

Clause 3 *(b)* (2) lays the groundwork for a proclamation at some stage in the future to abolish the payment of stamp duty on cheques. I think that the Minister of Finance has said something as broad as 'these sorts of questions are still being considered', but it is not any stronger than that. When one looks at the parlous state of the State's coffers and at the significant budgetary problems that lie ahead for this and future State Governments as a result of the fiscal and economic incompetence of Treasurer Bannon and his Government, it would appear to be a somewhat forlorn hope that the Bannon Government will ever be in a position to reduce State taxes and charges.

As I have indicated during various Appropriation Bill debates over the past 12 months, the record of decisions made in terms of the last State budget (which increased State taxes and charges collections by a record 18 per cent compared with an average of 6 to 8 per cent in most other States) is likely to be matched and even surpassed, certainly in this budget and, one suspects, in the remaining budgets of the Bannon Government.

Quite simply, State taxes and charges will have to be increased to pay for the significant problems that exist for the Bannon Government at the moment. There are one or two more important matters covered by the legislation that I wish to address. The first major change in the Bill relates to which bodies are exempt from having to pay stamp duty on cheques. I am advised that in this area we have the unusual circumstance where exemptions were a result of administrative acts by banks and not by the State Taxation Office, which has advised me that this has been the only such occurrence. It is unusual, but I will not go into why it occurred.

The original intention of this provision was that the exemption for stamp duty on cheques should cover only charitable, community, sporting and benevolent bodies, in effect, non-profit making bodies. I am advised that some non-bank financial institutions such as building societies and credit unions through their administrative arrangements were able to avail themselves of this exemption so that stamp duty was not paid on cheques through those non-bank financial institutions.

I am also advised (and I must confess that it was news to me over the past 24 hours) that some banks were offering all-in-one accounts to individual customers that provided an exemption directly to bank customers from stamp duty on cheques. Obviously the attitude of the stamp duties people has been that the exemption, which was intended originally for charitable, community, sporting and benevolent bodies, has now been significantly broadened by recent developments in that area.

The advice I have received about which organisations are likely to receive the exemption is that under the FID Act a series of bodies are exempt from the payment of FID and that, in the first instance, that will be the base group to be exempt, but the exemption from stamp duty on cheques will encompass a broader range of groups that are covered by the FID base. The FID group of exempt organisations will be a subset of the group exempt from having to pay stamp duty on cheques.

I note the statement in the Minister's second reading explanation that the Australian Bankers Association has written to the Treasurer advising him of the pending amalgamation of trading bank and savings bank activities and, as a result, the Government has put a view that a new

approach will be required as to which cheque accounts should be exempt from stamp duty. The second major area is the area that is emerging as a loophole which is being exploited by a small number of South Australian residents, but the Stamp Duties Office is concerned lest the level of that exploitation grow over the coming years.

I am advised that some South Australian residents are buying motor vehicles in South Australia but organising the paperwork and stamping to be done in the Northern Territory. Then, having paid stamp duty at a lower rate in the Northern Territory, they can then transfer the registration of the vehicle from the Northern Territory to South Australia. I am advised that the cost of transferring the registration from the Northern Territory to South Australia is the small sum of $12. If one looks at the difference in stamp duty on a $20 000 car or motor vehicle, one sees that the duty payable in the Northern Territory is $400 and that that in South Australia is $740. So, there is a financial incentive, if one is prepared to go to the trouble, to save some $340 in stamp duty on the purchase of a $20 000 motor vehicle. For the offsetting cost of some $12 to transfer the registration back to South Australia, that particular South Australian resident would be significantly ahead. Obviously (although I do not have the figures in front of me), if one were to purchase a more expensive vehicle, the financial attraction would, of course, be correspondingly increased.

Certainly, it is my view that the Parliament ought to close off that loophole. None of us likes paying taxes; nevertheless, if we allow these sorts of loopholes to continue, it simply means that Governments must recoup greater amounts from those taxpayers who are not prepared to go to these extravagant lengths to avoid payment of duty. There ought to be a fair distribution of the burden, if I can put it that way. Certainly, I do not support the continuation of loopholes like this, which might see certain individuals or residents of South Australia avoid due payment of stamp duty. So, the Government has introduced a Bill to attempt to close that loophole. On behalf of the Liberal Party, I indicate our willingness to support the Government in relation to the closure of the loophole.

There are one or two other minor matters in relation to the Bill which I will not address during my second reading contribution. I again state that the Liberal Party is disappointed that the Government, in addressing the issue of stamp duties, is doing so only in relation to a continuation of the tax take from this area, whilst at the same time it is significantly increasing the tax take from financial institutions duty. The Liberal Party would have preferred an alternative approach; that is, if there were to be a significant increase in financial institutions duty—and there is certainly an argument that, if there must be an efficient tax, that collects tax across the board and allows at least the opportunity for avoidance through loopholes—then FID, from that viewpoint, is a relatively efficient tax. So, if one were to increase a tax such as FID, the Government ought to look at reducing the overall tax impost by getting rid of another tax, such as stamp duty on cheques, as has happened in New South Wales, Victoria and Tasmania.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Interpretation.'

The Hon. R.I. LUCAS: I had some extensive discussions with an officer from the stamp duty section of the State Taxation Office late this afternoon, and he answered most of the questions that I might have put during the Committee stage of the debate this evening. I place on notice, and request the Attorney to respond to this later, a question in relation to the Government's intention as to which organisations will receive the exemption from stamp duty payable on cheques.

As I indicated in my second reading, the initial advice I received from the stamp duty officer was that at this stage the base would be the groups that are covered in the Financial Institutions Duties Act, that that would only be a base and it would be built upon; and that they were doing further work in that area. So, I concede that at this stage that is as much as we would have got from the officer, anyway. However, I ask the Attorney at some stage soon to advise my office, of the Government's intention in this area once the legislation has passed.

The Hon. C.J. SUMNER: I undertake to do that. I will refer the matter to the Treasurer and get him to respond to the honourable member in relation to this matter.

Clause passed.

Remaining clauses (3 to 6), and title passed.

Bill read a third time and passed.

STATE SUPPLY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 April. Page 4156.)

The Hon. ANNE LEVY (Minister of State Services): I thank the honourable member who spoke in general support of this Bill. He posed in his speech a number of queries to which I would like briefly to respond before we move into Committee. He asked whether or not Government purchases of goods are subject to sales tax and whether this results in a level playing field in what may be regarded as competition with the private sector.

I informed him that Government purchases of goods for Government use are not subject to sales tax. For example, motor vehicles purchased by the Government for its own use are not subject to sales tax provided they are not sold before two years or 40 000 kilometres, whichever occurs first. However, Government purchase of goods for resale to private individuals are subject to sales tax. For example, any sales to school students, incur sales tax where appropriate. Only Government goods for Government use are exempt from sales tax.

The honourable member also queried the warehouse operations of State Supply and I reassure him that the warehouses are operated, as far as possible, along commercial lines. They incur the same or very similar charges as the private sector. For example, the warehouse operations are charged with payroll tax, WorkCover costs and rental for premises equivalent to the rental that would be charged for commercial premises. They are also charged for insurance, interest on loan funds, long service leave loading and superannuation contributions.

I also assure him that State Supply has financial targets as part of its overall planning as agreed with Treasury. These requirements on State Supply mean that it provides Treasury with 50 per cent of all surpluses. In other words, a dividend of 50 per cent is being paid to the owners, that is, the taxpayers of South Australia. I doubt that many commercial operations would make available 50 per cent of their profits to shareholders. Except for the past financial year State Supply has achieved surpluses over recent years and it certainly expects to do so in the current financial year and beyond. Not only is a 50 per cent dividend paid to the owners but also, as with all business units, State

Supply is expected to provide a 20 per cent return on invested capital.
This has been achieved in recent years—a record that I doubt could be repeated in many parts of the private sector.

The Hon. Mr Davis also queried the sale of vehicles by State Supply. He complained that no warranties or RAA inspections are available. I remind him that State Supply disposes of vehicles by auction. It is not a second-hand car yard as the cars are auctioned, and warranties on vehicles are not required by law when offered by auction in the private sector any more than in the public sector. As to any effect that the disposal of vehicles by State Supply might have on the private market, I understand that approximately 150 000 second-hand vehicles are sold each year in South Australia. State Supply sells about 3 000 vehicles per year.

Some 60 per cent of these are sold to second-hand dealers. Only 40 per cent are sold to private individuals; that is, about 1 200 vehicles a year. That is less than 1 per cent of the total number of second-hand vehicles sold to private individuals each year in South Australia. These quantities could not distort the market or create undue competition. Whilst 60 per cent of all vehicles are purchased from State Supply by dealers, 15 per cent of these are purchased by interstate dealers who recognise the value of attending auctions at State Supply and subsequently taking the vehicles back to their second-hand car yards to the benefit of South Australia.

In recent times State Supply has introduced, on a pilot basis only, the use of RAA inspections. However, this has aroused a number of complaints not from members of the public but from the dealers. The fact is that State Supply is striving to achieve a high return from vehicle sales in a completely ethical and accountable way. The buying public is obviously happy. Many customers are repeat purchasers. The only concern seems to come from some dealers. I suspect that has been stimulated recently by the broader economic circumstances. However, the Director of State Supply will be meeting the Motor Traders Association in the near future to have discussions and to understand and address the dealers' concerns.

I should make two other points. After discussions with various people, we feel that there is one clause on which more consultation would be desirable. I am happy to give the undertaking that when that clause (clause 6) is reached in Committee I will move that it be deleted. That is not with the aim of forgetting about this issue: it is to ensure further consultation and enable another Bill to be brought back on this issue in the budget session. I understand that, because of this, the Hon. Mr Davis will not be moving for an instruction to the Committee and will not be moving one of the two amendments that he has on file as that amendment relates to the clause which will be removed from the Bill. I also indicate that I shall be opposing the Hon. Mr Davis's other amendment on file which I regard as being inappropriate and which he will be moving without having had any consultation whatsoever with the people concerned.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Constitution of the board.'

The Hon. L.H. DAVIS: I move:

Page 2—
Line 1—Leave out 'five' and insert 'four'.
Lines 9 and 10—Leave out all words in these lines.

Before I address the amendment, I take the opportunity of thanking the Minister for her response to the queries that I raised in relation to this Act, which seeks to amend the State Supply Act 1985. I put on record that I appreciate the Minister's willingness to accept that, in this last and typically frenetic week of Parliament, there has not been the opportunity to make full consultation on some aspects of the Bill. Certainly, it is not a Bill of earth-shattering importance, but I accept that there are certain areas of it which the Government believes need to be passed. The Liberal Party is certainly prepared to cooperate in respect to those measures. However, in relation to clause 6, which relates to the functions of the board, and the other matters which I canvassed in my second reading contribution. I am pleased that the Minister has indicated that she will be happy to defer those matters until the budget session later this year.

However, I stress that the Opposition remains concerned about certain aspects of the operations of State Supply. It is an area which is not fashionable to debate in the public arena but, nevertheless, it has an operation of great importance to the public sector of the State. To the extent that those operations are in competition with private sector interests, it is a matter of public importance that the functions of the State Supply Board are properly understood.

The Chamber of Commerce and Industry and other individual industries such as the health and surgical equipment industry have had some concerns about the growth of the State Supply operations and I certainly undertake to facilitate the passage of any further amendment to the State Supply Act in the next session of Parliament.

I now want to address my remarks to the amendment before the Council, which seeks to delete from the Constitution of the State Supply Board 'a person nominated by the United Trades and Labor Council'. That would mean that the board would consist of the Chief Executive Officer of the Department of State Services who would act as Chairman of the board, and four other members who would be appointed by the Governor. In other words, the board would consist of five persons rather than six. I have no difficulty with a board of five persons; it is an odd number, but it is an appropriate number, and has a very good balance. As a result of the proposed amendment 'two must be members or officers of public authorities or prescribed public authorities; one must be a person with knowledge and experience of private industry or commerce; one must be a person with knowledge and experience of economic and industrial developments'.

On previous occasions, the Liberal Party has opposed a person nominated by the United Trades and Labor Council, not because we are against unions *per se*; that point has clearly been understood. We do not believe that it is appropriate in a situation like this where the functions of State Supply are confined very much to the purchasing of goods and services and the supply operations of public authorities.

The Hon. R.J. RITSON: This issue raises the point that is often, particularly with this Government, a matter of confusion, namely, the confusion between boards of expertise and boards of syndical satisfaction, which is a term for boards that are set up to give a fair outcome and a fair representation to groups having conflicting vested interests. They are quite separate and serve quite separate functions.

In the case of State Supply, it is not a question of conflict between different groups that need representation to resolve the conflict. We take the view that it is a board of expertise rather than a board of syndical satisfaction, and we regret that, through its legislative program in recent years, this Government has produced boards that are a mixture of the two. When the two functions are mixed, the worst of all worlds is created. I support this amendment. There should not be any conflict. It should be merely a board of expertise.

The Hon. M.J. ELLIOTT: The Democrats oppose the amendment. If the word 'union' is mentioned, the Opposition reacts. The UTLC representative has been on the State Supply Board since 1985, at least, although I am not sure what happened before that time. There has been no argument to suggest that this has created any form of difficulty. I really do not see the reasoning behind it, assuming there is some.

The Hon. ANNE LEVY: I oppose this amendment. As the Hon. Mr Davis indicated, the balance of the board is very good. It has two officers from public authorities, one from the private sector, from the Chamber of Commerce and Industry and a representative of the United Trades and Labor Council, plus the Chair. This Bill attempts to add to the board another person who has experience in economic and industrial development. The operations of the Supply Board have an impact on industrial development in this State. Members may not be aware that the State Supply Board has put out its procurement requirements for years to come and is holding seminars with private industry to explain its expected requirements so that, with this knowledge, South Australian industry can put itself in a good position to tender for that work.

However, the board wants an extra person with experience in economic and industrial development to enable it to achieve more in terms of development and assistance for industry in this State, without departing from its principles of getting the best possible value for money in its purchases on behalf of the taxpayer. I should add that the representative from the United Trades and Labor Council has made a very valuable contribution to the working of the board and the board was unanimous in its response to the review of the Act, which was made externally, that the UTLC representative has contributed a great deal. There have certainly been no problems in the working of the board, from either the union representative or the private sector representative.

Amendment negatived; clause passed.

Clause 5 passed.

Clause 6—'Functions of the board.'

The Hon. ANNE LEVY: I move:

That clause 6 be deleted from the Bill.

As I indicated earlier and as the Hon. Mr Davis mentioned in his earlier contribution, the amendments relate to the functions of the board. They arise from the review of the State Supply Act, which was tabled in this place some time ago. Obviously, the Opposition would like more time to consult on this matter and, while I think there may be some misunderstanding as to the intention of the clause, I am quite happy to leave the parliamentary recess as a time when more discussion and consultation can occur about the rewording of the functions of the board. Elimination of this clause will not mean that the board has no functions in the intervening time; it will merely have those that are currently in the Act. They will not be altered, and alterations can await the budget session.

Clause negatived.

Remaining clauses (7 to 9), schedule and title passed.

Bill read a third time and passed.

INDUSTRIAL CONCILIATION AND ARBITRATION (COMMONWEALTH PROVISIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 April. Page 4274.)

The Hon. T. CROTHERS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. Peter Dunn interjecting:

The Hon. T. CROTHERS: I have not uttered even two words and the Hon. Mr Dunn is interjecting already. I should imagine by the time I have finished the many truths emanating from me will have prompted more interjections. However, in rising to support the Bill, I open my remarks by stating that the nineteenth century-type industrial attitudes of the Liberal Opposition do not surprise me. Its attitude against the trade union movement in this country has always been at best, confrontationist because of the close links that that Party has had over many years with the Chamber of Commerce and the South Australian Employers' Federation, as well as other employer umbrella organisations. However, that fact is kept very much hidden from the public.

I wish to address my remarks particularly to that part of the Bill which embraces the preference to unionists clause. By and large, the Liberal Party's attitude is reflective of those people who believe that industry would work more efficiently if the industrial relations system were totally decentralised, if the tribunals and unions were kept out of employment agreements, and if all those industrial agreements were left to the people at the enterprise level. But the Liberal Opposition in this Chamber is very clever in the manner in which it conceals and cloaks from the general public its true thinking on industrial matters.

The fact is that members opposite are anti-organised labour for the very same reasons that Stalin and Hitler, two of the most ruthless dictators of the twentieth century, did away with the *bona fide* leaders of the trade union movement in both Russia and Germany. They fear the opposition that can be provided by a democratically well-led union movement against the depredations of over-greedy and over-avaricious use of capital. As I said previously, if their industrial attitude was put on the auction block, it could best be described in the auction catalogue as late eighteenth century, possibly early nineteenth. It is an attitude, as it relates to working class people, that can best be summarised by the remarks of General Custer shortly before his last stand. In speaking to his Indian scout, he said, 'Tell the Indians that the army is their best friend.'

I will now endeavour to try to allay the fears of the Democrats in this State in relation to the preference to unionists clause. It appears that it does not affect the Democrats in New South Wales or in the Federal Parliament in the same way as it affects the Hon. Mr Gilfillan and the Hon. Mr Elliott here, since the Democrats in those places supported preference to unionists clauses when they came before their respective Parliaments for the process of decision-making. It is a fact that all of us in this Chamber believe that society operates at maximum efficiency when it combines. Members in this Council, whether we belong to the Australian Labor Party, the Liberal Party or the Australian Democrats, are living proof of the fact that in unity there is strength.

I would like to refer now to my own union and other related matters which I believe when considered in total represent an undeniable case for the preference for unionists clause to go into the Bill and stay there.

The Hon. Peter Dunn: You are the living proof of it.

The Hon. T. CROTHERS: You wouldn't know, because you would be dead for four days before we knew you were missing. Turning to some of the contributions that were made by Democrats in other places, I would like to put on record the contribution made by the Hon. Elisabeth Kirkby

fairly recently in the New South Wales Parliament. She was referring to a Minister of the Greiner Government when she said:

Later in the Minister's second reading speech he referred to the survey conducted by the Roy Morgan Research Centre. He pointed out quite accurately that only 38 per cent of all full-time workers belong to a union and 87 per cent of Australians believe that union membership should be voluntary.

An honourable member: Hear, hear!

The Hon. T. CROTHERS: That is typical of Liberal interjections; they hear half a truth and immediately turn it into a total truth. This is reflected every time in their behaviour in this Council. The Hon. Ms Kirkby continues:

Therefore, if these research results are correct—I have no reason to believe they are not—and if it has been necessary to be a member of a union in this State in order to get a job—

this is the question; this is the truth; this bells the cat of your misobservations—

how is it that after 50 years of preference to unionists only 38 per cent of workers belong to a union? How was it possible for more than 70 per cent of the work force to have got a job when they were not members of a union? If there was compulsory unionism, how would they have gained these jobs? The Minister defeats his own argument by introducing these figures.

That is a very pertinent observation. The honourable member continues:

Later in his second reading speech the Minister said that closed shops have become a fact of life in the workplace. However, he did not qualify that statement. He did not tell us where all these closed shops are to be found. In one paragraph of his speech he said that only 32 per cent of private sector employees belong to unions. It follows, therefore, that closed shops could not exist in all those areas where those people are employed.

At that stage, the Minister (Hon. E.P. Pickering) interjected:

Steel, coal, transport, wharves, police—all the major ones.

In reply, Ms Kirkby said:

The Minister has just said by way of an aside that people belong to unions in all the major areas. He is trying to tell the House now that all the major areas of employment employ only 32 per cent of the work force. That is a ridiculous argument. Later in his second reading speech the Minister said:

The Bill provides that an employer or an industrial union must not victimise a person because that person is a conscientious objector—

there is absolutely nothing wrong with that statement—

or because a person does not belong to an industrial union of employees or has refused to engage in industrial action.

Ms Kirkby went on to say:

There is nothing wrong with that statement either. I have had brought to my attention cases that demonstrate that since this voluntary unionism legislation has been given attention in the news media, employers have been saying to their employees, 'We have voluntary unionism now. You do not have to belong to a union any more. Unless you leave the union, I shall retrench you.' If that is happening even before the legislation has been passed one can imagine what will happen if the legislation is passed. It is a total and absolute furphy to suggest that compulsory unionism and preference to unionists can be equated. They are not the same thing; they are clearly two different things.

Before I continue quoting the Hon. Ms Kirkby, I place on the record—and even my modesty will permit me to do so—that from a practical and knowledgeable point of view with respect to matters that are pertinent to union membership—

An honourable member interjecting:

The Hon. T. CROTHERS: The legal eagle from the Opposition front bench interjects! I wish he would listen to me. I am not about to talk of legalistics; I am about to talk of what happens in the workplace. As I said, I will forgo my usual modesty in order to put this matter on the record. The position is that, in the 14 years in which I was a paid officer of the union and in the 12 years in which I was a non-paid officer of the union, there were only three reasons why people would not join a union: first, the boss was using standover tactics to prevent them because he or she was cheating on wages or award conditions; secondly, the person was speaking through their hip-pocket nerve (or a combination of both the first and second factors); and, thirdly, very occasionally one found a genuine individual who had a principled objection against joining the union.

During my 14 years in dealing with both employees and employers, I found that the minute people were told—and in my union we had some closed shop agreements—that it was a condition of their employment to be a member, their objections suddenly disappeared. You yourself, Mr President, as a former officer of a union, would understand that what I say is the truth. When we would go to the employer who was active behind the scenes in endeavouring to persuade these people not to join the union and examine the time and wages records, invariably we would find many thousands of dollars in underpayments.

My union represented the restaurant industry. The Australian Bureau of Statistics will tell you that that is the worst industry in Australia with respect to harsh or unfair dismissals and not paying the correct award rates of pay. Let us consider what that means for the *bona fide* employer—and there are plenty of those in this industry—who is paying the correct award rates of pay. It means that the *bona fide* employer cannot compete with the cheats—people who members opposite would encourage by their unconscionable and unsustainable objections. Members opposite cannot sustain the argument because they mitigate against the *bona fide* employer who is undercut and short-changed by the cheats and, because he or she cannot compete, the price they must charge for their end product is higher. That is what members opposite are doing.

There are not enough industrial inspectors in the world to police that situation; nor are there enough union officials in the world to police it. Many employers and employer organisations are glad that union officials keep the cheats honest by looking at their time and wages books. This allows the decent business people to remain in business.

That is the position—whether or not members opposite shake their head—that I found during my 14 years of being a trade union official, seeing both the employer's and the employee's side. In my view, members opposite would seek to do away with that because of the head in the sand attitude they have adopted.

The preference to unionists clause was first incorporated into the Federal Act in 1947. Some 60 per cent of employees under award in South Australia operate under a preference to unionists clause, and those that have been under a Federal award have so operated since 1947. All members opposite will succeed in doing in terms of what the Ministers of Labour are trying to do is to ensure that unions which have award coverage in South Australia will change their awards into the Federal system. As I have said, there is nothing for anyone to be fearful of in unions having representation within the industry.

Yesterday, some of my colleagues, in their contribution to this Council, deliberated about the BHP company, and explained, I thought fulsomely, to the members on the Opposition benches how the Australian indigenous steel manufacturing industry would in fact, if it had not been for a tripartite agreement between BHP, the trade union movement that had members there and the Federal Government, have been prepared to close down within two years the steel manufacturing division in Australia. As a consequence of the assistance of the Federal Government and considerable agreement between the employer and the employee, we have a buoyant steel manufacturing industry in Australia today. Even in these times of economic harshness we have a steel

manufacturing division that is exporting and contributing many tens of millions of dollars to our balance of accounts.

When members of the Opposition talk about small business, they must understand that the small businesses that are of importance to Australia in this day and age are the small businesses that are the lifeblood of our exports and the lifeblood of the products which they manufacture preventing us from having to import products. I will come back to this matter later because that warrants even closer examination. I refer now to some of the major causes of disputes in the industries that are operative in Australia. Two of the biggest nonsense disputes in which employers and the trade union movement in Australia become involved are issues of demarcation and issues of non-union membership. The stand of members opposite is not a stand, irrespective of what they or anyone else might say, of adhering to any position that might lead to a united nation: it is a stand in support of the cheats (whether they like it or not) that still abound in Australian industry. As I said, the biggest causes of industrial disputes that I know of are issues of demarcation which can best be addressed—

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: Well, listen Ms Laidlaw and you might pick up a couple of good hints here, and they might stand you in good stead up the track.

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: I wouldn't do that: all too often I have to listen to you, and I don't want to hear you again. These are issues of demarcation that are being addressed by the Federal Government in respect to the type of union amalgamations that are about. Yet, because of that, the Opposition sees that as a particular rock that requires turning over and over again to see just what really is under it. Members opposite do not understand just how much disputation is involved in issues of demarcation or, indeed, do they understand how much industrial confrontation is involved when people are encouraged by people, like those on the Opposition benches, to avoid paying their dues for services rendered.

I do not hear members of the Opposition encouraging people in a particular council area not to pay their council rates each year—I do not hear that. There is no question of whether or not, if people are in a particular council area, they pay their rates.

An honourable member interjecting:

The Hon. T. CROTHERS: I do not want members opposite talking about ballots, because trade unions have ballots every four years for the election of their officials. That is just another reason why members opposite should be supporting the provision.

The Hon. J.F. Stefani interjecting:

The Hon. T. CROTHERS: Yes, they do. Under the Conciliation and Arbitration Act, they have to, Mr Stefani, although you would not know about that. You are like me: you have to face election in this Chamber only every eight years, but in the trade union movement it is every four years. That is yet another reason why members should be supporting people belonging to the appropriate union and agreeing with that clause of the Bill, so that the shonks who would try to keep unionism out of the factories are prevented from doing so.

When we look at the Federal Act, I can think of cases (and I am sure that the Hon. Mr Griffin or the Hon. Mr Sumner could think of even more) where preference to unionists arguments have been taken into the Federal industrial arena and been lost by the union movement because the commissioner has not seen fit to go along with the union application. It is not a question of its being suggested that, once that provision is there, it will lead to a plethora of applications, all of which will be granted.

One thing that the provision does is to give the trade union movement some teeth in respect of ensuring that they can stop cheating by taking the fear out of people's hearts and minds that if they join the movement they will be sacked. How often have I heard that in my 13 or 14 years?

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: The Hon. Mr Griffin interjects. I imagine that, as a practising lawyer, he would be a member of the Law Society.

The Hon. K.T. Griffin: It's voluntary.

The Hon. T. CROTHERS: It doesn't matter: please stop being pedantic, Mr Griffin, when you say 'voluntary', because you know what is known in the upper echelons of society; you do not know what is happening down there with the ordinary worker.

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: I don't want to start on you, Ms Laidlaw.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: You do not know what is happening with small business. Certain small business does not want to know what is happening to you, from my information.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: I have covered the issue of industrial disputation, but I notice—

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. T. CROTHERS: Well, let him go. If he is interjecting against me, he is leaving some of his other mates alone.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: If I may, I will turn to the last time in this State the issue of preference to unionists was addressed. That was during the currency of the Tonkin Liberal Government which, I think, ran from 1979 to 1982, when the then Liberal Minister of Labour and Industry (Hon. Dean Brown)—

The Hon. G. Weatherill interjecting:

The Hon. T. CROTHERS: Well, I don't want to go into the ferocious nature of the preselection fights of the Liberal Party.

The Hon. Dean Brown appointed an industrial magistrate, supposedly an impartial observer, Mr Frank Cawthorne. He may not have been an industrial magistrate at the time, but he is certainly a Deputy President of the Industrial Court and Commission in South Australia. He was commissioned by the then Liberal Minister (Hon. D.C. Brown) to report on the requirements for legislative changes to meet current and likely future developments in industrial relations.

Following the Cawthorne inquiry into the Industrial Conciliation and Arbitration Act 1972, the report was given to Minister Brown on 20 April 1982. That report was not released for public discussion by the Liberal Party then, and it was not until the change in Government in 1982 when a new Minister (Hon. Jack Wright) was appointed that the Cawthorne report was released to the public. Some of us who were then active in the trade union movement wondered why the report had been held up, and we soon found out when we read it. At page 29 of the report—

The Hon. L.H. Davis: You are nine years out of date.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Crothers has the floor.

Members interjecting:

An honourable member: Throw him out.

The Hon. T. CROTHERS: Keep him here. Don't throw him out.

The PRESIDENT: Order! The Hon. Mr Crothers.

The Hon. T. CROTHERS: At page 29 of his report, Mr Cawthorne—now Deputy President Cawthorne, appointed by the Liberal Government—made the following observations and recommendations:

> I adhere to the view originally expressed in the discussion paper that there is a case for allowing the commission a discretion to award preference to unionists in appropriate cases. What must be borne in mind when faced with the outrage of those who bridle at making any concessions whatsoever in favour of unions is that, if an award of preference is made by the commission, it is more likely to favour the moderate union with potential members in numerous widely scattered small work units than it is to the militant and strong unions which will win *de facto* compulsory unionism in the field in any event.

This is a Deputy President of the Industrial Court. We heard the Hon. Mr Lucas refer yesterday to independent—

The Hon. L.H. Davis: A decade ago!

The PRESIDENT: Order! The Hon. Mr Davis.

The Hon. T. CROTHERS: He said it yesterday. Here is an independent umpire, not a trade union member or a member of the ALP. And, as the Hon. Mr Lucas said in the education debate (although I do not know whether or not it was true), here is the independent umpire that we are looking for, namely, Mr Frank Cawthorne—now Mr Deputy President Cawthorne—who was appointed to the task by the then Liberal Minister of Labour (Dean Brown) and who further stated:

> In the former case, workers are often subject to all sorts of pressures (both articulate and inarticulate) from the employer not to join a union whilst the exterior facade is one of 'everyone is entitled to make their own decision on whether to join or not'.

Mr Cawthorne then went on to say:

> My recommendation is not couched in terms that would inevitably lead to awards providing for compulsory unionism no matter what the circumstances of the case. It is merely a suggestion that the Full Commission be vested with a discretion toward preference to unionists at the point of engagement and on termination of employment where it considered it just and equitable to do so.

That is what we have been arguing: that is what the Bill means. The Government, since the handing down of the report by Mr Cawthorne, has attempted to pass legislation to give effect to his recommendations.

It was also to bring the South Australian Act into line with what was then the Conciliation and Arbitration Act of 1904. Unfortunately, the last attempt by the State Government was defeated as a result of the hysteria and paranoia whipped up by employer groups, supported by the Liberal Party. From time to time we do get an enlightened view from our democratic colleagues here but, unfortunately, on that occasion, it was acceded to by the Australian Democrats of South Australia. This was despite the fact that the Democrats' parliamentary colleagues in New South Wales and in the Federal Parliament have a different view about preference to unionists.

The Hon. I. Gilfillan: That is rubbish.

The Hon. T. CROTHERS: It is not rubbish; it is a fact. When the Hon. Mr Gilfillan was absent from this Chamber, I quoted from a speech given by the Australian Democrats' member in the New South Wales Upper House (Miss Elizabeth Kirkby). It is on the *Hansard* record and proves the falsehood of the honourable member's interjection of rubbish to my statement about her position in New South Wales.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: I must say that the attitude of the Democrats in South Australia is perplexing in the extreme, given the willingness of their counterparts in the Senate, both in 1982 and 1990, not only to support the existing Federal legislation of preference to unionists but also, in 1990, to strengthen it. In addition, members of the Democrats in the Upper House in New South Wales joined with Labor Party members to defeat attempts by the Greiner State Liberal Government to attack preference provisions in the New South Wales Industrial Act. Unfortunately, the only conclusion I can draw from that is that the position of members of the South Australian Democrats is, for some reason best known to them, much more conservative than that of their interstate colleagues. I hope I am not being harsh in coming to that conclusion, and that I am wrong, but they appear to be basically anti-worker, no matter how the language is dressed up.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis is out of order.

The Hon. T. CROTHERS: Having covered some aspects of the Cawthorne report, I want to turn now to the manner in which organised labour has been able to assist the processes of democratisation in other nations, when it has sought to combine to form a union and to reach out and grasp freedoms and positions that it thought were being denied to workers. Which of the members on the other side of the Chamber can deny that they supported the formation of the *Solidarinoscz* union in Gdansk in the shipyards, in Poland, under the leadership of Lech Walensa, and its struggle to deal with the problems that confront unions the world over every day? It is not drawing too long a bow—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. Every member will have the opportunity to enter the debate. The Hon. Mr Crothers.

The Hon. T. CROTHERS: Thank you, Mr President, for your protection. It is not drawing too long a bow to suggest that the particular position that resulted in the Warsaw Pact nations and is now, as a consequence, running through the Russian Federation of States, and had its emanations from the formation of *Solidaranoscz*—which is more commonly known as Solidarity for the less erudite of members opposite who do not speak Polish (and modesty prevents me from saying any more than that). It is not drawing too long a string in the bow to say that no small measure of what has happened in Eastern Europe over the past five years can be attributed to the formation of that particular union.

I do not make any comment here on whether that is a good or bad thing for the future, or whether it is a good or a bad thing that the Russian federation is in the process of breaking up. I make no comment on that, other than merely to state the obvious fact concerning the future of that part of Europe.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: You are pretty irrelevant, too, but I would never tell you so. I wish to speak about those groups of people in our community who are not working in small enclaves of employment, who do not have pressures put on them by shonky bosses in respect of union membership. I can think of quite a number. I can think of the Law Society. I can think of the Australian Medical Association, which is the only organised union in Australia that sets its own terms for wages and conditions. The rest of us

have to go before a judicial commission to argue terms and award conditions for members.

The Australian Medical Association, which is always greatly supported by the Opposition, of course, does not. What about the Police Association, whose members uphold the laws and the statutes debated by this Parliament? They recognise that in unity there is strength, that ever since mankind has come together as a race of people you can exercise maximum efficiency in respect of your own best interests if you are organised together. That is the police in this State; the people who uphold our laws and our orders are all in the Police Association. What better act of judgment could you get as regards the benefits of union membership when you see the police, with their understanding of the workings of the law, forming an association, to which they all belong, and which is also affiliated with the United Trades and Labor Council? What better example could you get of the true and proper understanding of the functioning of a body of people who have come together for a particular purpose?

The Opposition has gone strangely silent, Mr President; even the Hon. Mr Davis, the fellow with the parrot on his shoulder, has gone strangely silent.

Members interjecting:

The PRESIDENT: Order! The Council will come to order!

The Hon. T. CROTHERS: I did speak at some length last night, as did my colleagues on this sensible side of the House, about BHP and the steel manufacturing division of that company regarding the way in which trade unions and employer bodies can come together, and nothing but good can come out of that.

Whilst I am on the subject, I note that during the term of the accord, involving various employer organisations, the trade union movement and the Federal Government, with the assistance of the State Labor Governments, although one could argue the figures on a minimum and conservative argument, labour costs in real terms have declined in Australia by 6.4 per cent or, on average, .8 per cent per year. That has been achieved through the workers of organised labour playing their role in trying to haul the nation out of the deprivations of some 30 years of Liberal Government, going back to the Menzies era in 1949 and ending with the seven years of Fraserism. We see the position with the Chamber today applying to remove the holiday loading. That is fine. That is their right; I do not object to that—that is what the Industrial Commission is for—but it does seem to me to be somewhat shortsighted.

Certainly from my experience in the industries from which I come—the hotel and motel service industries—if the Chamber is successful, it will lead to a lessening of the utilisation of those services by people on annual leave. Even though apparently the money is not being taken away but is being given out in small packets each week, by the time the Treasurer gets his hands on it and people dissipate the $4.60 a week, on average, there will be about some $300 a year lost to them when they go on annual leave as a consequence of what I think is a fairly shortsighted application. As I have said, that is their right; they represent the other side of the organised labour—the employer—and have a right to do that. I hope that they do not succeed as I believe they are wrong.

They have the right to utilise the jurisdiction of the industrial courts of the land, but we are not the only country to pay an annual leave loading. Sweden pays a 12 per cent loading; Norway pays 11.2 per cent; Austrian workers get their normal time plus any regular overtime and bonuses; Belgian workers receive a bonus equivalent to three weeks pay; Denmark calculates a bonus equivalent to 1 per cent of annual salary; Greece pays a bonus equivalent to 15 days pay; and Holland pays 7 per cent of wages earned in the previous year. Germany, which is held up by the Opposition as being an ideal economy, pays its workers a bonus of up to an extra month's salary; in other words, a 100 per cent leave loading. I will not deviate too far from the contents of the Bill (if, in fact, I have deviated at all). The question which members opposite have not considered but which is of paramount importance is the ability for employers, particularly those in small businesses, to deal with their counterparts in the trade union movement.

Irrespective of who is in Government federally—whether it be my Party or that of members opposite—over the next 10 years Australia will need billions of dollars in investment capital. If one thinks through the matter, one must ask where, in the light of other global events going on around us, Australia can get those billions of dollars of investment capital that it so urgently needs in order to become truly export competitive. It is not sufficient for the workers to surrender 6.4 per cent of their wages in real terms and it will not get Australia's manufacturing industry onto an even keel in competition with the rest of the world.

That is what I meant when I said that I would come back to the matter of small business because, on a scale of values, one has to ask oneself what elements of small business are more important (we know that all are important); and one comes back to the principle referred to earlier, namely, that the businesses of some small companies which are making profit cut down on our import bills. I come back quickly and decisively to the question: where do Australia's future investment dollars come from? Those dollars are urgently and necessarily needed.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. T. CROTHERS: I can put on the back of a postage stamp what the Hon. Mr Davis knows of any worth about economic policies. By 31 December 1992, the European Economic Community will be indissoluble in its bonding together. Denmark stayed outside the Community for years, but it has now applied to go in. Sweden is about to apply to go in, because even Swedish industry, given the bonding together of the EEC, cannot get a sufficient amount of investment capital.

One must ask oneself: where will Australia procure its investment capital from? It will not get it from West Germany, because West Germany will be too busy pumping every spare deutschmark that it has into the other half of what is now a reunited Germany—East Germany. The other countries with capital to spare, which are component parts of the EEC—France, Britain and Italy—will be too busy pumping any surplus capital that they have into Hungary, Czechoslovakia and Poland so that they can further expand the geographic horizons of the EEC. Those of us who have no vested interest, and who have been watching the world economic scene, also understand that America, which has already formed a North American Economic Community—three weeks ago it signed up with Canada and Mexico—has an economy which is in tatters. When George Bush wins his next term, as I believe he will, he will have to take more drastic measures to address the North American economy than Keating or Hawke have ever had to take over ours. The Hon. Mr Davis would know that to be the truth.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. T. CROTHERS: We will not get any investment capital out of the United States. That leaves the alternative of Japan, but Japan has already heavily invested—

An honourable member: What about Ireland?

The Hon. T. CROTHERS: I suggest that you go there. I know a couple of people who could fix you up good and proper. Japan has already heavily invested in Australia, so we will not get much more investment capital out of Japan. That will flow back to mainland China, Indonesia, Taiwan, Singapore and Hong Kong.

The Hon. L.H. Davis: But what about the Bill?

The Hon. T. CROTHERS: I am talking about the bill that we will have to pay for your eighteenth century industrial attitude.

The Hon. L.H. Davis: What about the Bill before the Council?

The Hon. T. CROTHERS: That is where it will go. The only place that is left to this nation to get its hands on the type of investment capital that it needs will be the unions' superannuation funds. The Hon. Mr Stefani laughs. It shows what he knows if he laughs at the seriousness of my remarks. This is true, and I tell the Hon. Mr Stefani that truth is always a defence, even against the most inane of laughs. These people have condemned perhaps 60 per cent of Australian workers to having union officials negotiate for non-members of the unions as regards where they will place their superannuation funds, or if they are going to place them.

The Hon. Diana Laidlaw interjecting:

The Hon. T. CROTHERS: I hope that you have learnt a little bit tonight. Mark my words, these people are of the same ilk as those who laughed at Jim Cairns when he was so prophetic about the Vietnam War. They are the same people who do not choose to understand.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: Dante's inferno would be a fair place for you to be, but I am not going to say that because it would be unparliamentary. These are the same people who took that view during the time of the Vietnam war. They are so short sighted in their vision that it is beyond belief—beyond belief! However, besides unions, there are some other elements of the community who care for workers and for the under-priviliged. I have a copy of Pope Leo XIII's encyclical letter *On the Condition of the Working Classes, (Rerum Novarum).* One hundred years ago, Pope Leo XIII said that workers in factories and mines were often isolated and vulnerable, and it was relatively easy for unscrupulous employers to take advantage of them. They worked for extremely long hours at heavy and sometimes dangerous work for minimal income. That is what the then Pope, head of a church of some 750 million people, had to say in his encyclical concerning the working classes.

In fact, he went on to say: 'A second part of the solution was in workers helping themselves by uniting together in associations or trade unions'. To sustain that argument he quoted from the *Book of Ecclesiastes* where it says:

> It is better that two should be together than one; for they have the advantage of their society. If one falls he shall be supported by the other. Woe to him that is alone, for when he falls he has no-one to lift him up.

That is what Pope Leo XIII had to say in an encyclical of 100 years ago.

He went on to say that the poor, because of their weakness have a special claim on the protection of the State, and he said of people like the Opposition:

> The rich have many ways of protecting themselves. It is the state's responsibility to protect those who are more vulnerable to exploitation.

What bearing does that have today? Well, that is contained in a pastoral letter published by the Archibishop of Adelaide, Archbishop Leonard Faulkner, where he, too, expressed concern about the plight of the unemployed over the plight of the lowly paid.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: After 30 years of your mob, it is no wonder. You inherited a program from Chifley that lasted you through to 1960, and then you were not smart enough to carry on with what Chifly had left you. It carried you through for 12 years.

It is interesting to see what the good Archbishop has to say about today's times. In a pastoral letter to the people from the Diocese of Adelaide, headed 'Changing World' and subtitled 'Australia in 1991', Archbishop Faulkner said:

> In 1991 we Austalians find ourselves in an economic recession. We face a rural crisis which has caused enormous hardship for many families, and a crisis in small businesses everywhere . . .

We agree with that. He continued:

> Many Australians are confronted with long-term unemployment. Numbers of people are without adequate housing. Many feel trapped in poverty . . .

The Hon. L.H. Davis: You are reading that.

The Hon. T. CROTHERS: Of course I'm reading—I am quoting from it. Don't you normally read a quote?

The PRESIDENT: Order!

The Hon. T. CROTHERS: You inane being! He continued:

> Many feel trapped in poverty, with little access to resources or opportunities. This harsh reality of Australian poverty is largely hidden in our society, where popular culture is dominated by materialistic values, and by images of people on high incomes living extravagant lifestyles.

The Archbishop of Adelaide went on to say that, in his view, the principles of the encyclical letter of Pope Leo XIII 100 years ago titled *Rerum Novarum* concerning Government intervention on behalf of the poor have real relevance today. This is true as well of the encyclical's emphasis on the importance of people getting together in unions and other kinds of support and action groups. The Archbishop says that we need unions, but we need unions that are open to change and prepared to face new problems. Unions have done that and are continuing to do that because of ongoing change. Of course, they have not been helped by the attitude of members on the Opposition benches in their discourse about this clause, that is, the prescription for union membership, if the commission chooses that. I suggest that it does not stand up to a true test of scrutiny.

I am saddened by the Democrats' approach to this clause. Because they are enlightened people from time to time on matters industrial, I hope that, when the 13 or so pages of the Hon. Mr Griffin's amendments come before the Committee, the Democrats will rethink their position on the prescription about union membership that is contained in the Bill, in the light of what I have had to say in my contribution tonight. I hope that is the case. Unions and the Government are always prepared to talk.

Our interest in this is to protect those people who are incapable of protecting themselves from the ravages of the employer whose only interest in life is to make a quick quid and to make it off the back of the worker by not paying the proper award rates of pay to his workers, not only doing damage to his employees in respect of that but cheating on the *bona fide* employer who pays the correct wages and who cannot compete with the employer who cheats. I have no doubt that there will be a denial by the Opposition that its amendments seek to make it easy for unscrupulous employers to continue to cheat. I am sorry that I took a little longer than I expected, given that the Council has other matters to deal with. However, I may have more to say at the Committee stage.

The Hon. I. GILFILLAN: I rise to indicate Democrat support for the second reading of the Bill. Prior to the resumption after dinner, I was in the Legislative Council's small lounge and the Hon. Trevor Crothers came in and was smitten by a rather uncomfortable coughing bout. He was heard to share with us some sort of concern and lamentation that he was expected to speak this evening and he was not sure how he was going to handle it. It is with great relief that I gather he managed to get over that minor blip. Were he in full command of the vast capacity that he has vocally, I wonder how much longer his speech would have been!

The Hon. Trevor Crothers placed emphasis on the Democrats' situation in this matter, particularly as it relates to the clauses dealing with preference to unionists, and I shall deal with that first. In 1984, the present Bannon Government in the Industrial Conciliation and Arbitration Act Amendment Bill introduced the following section relating to preference to unionists:

29a (1) The Commission may, by an award, direct that preference be given, in relation to particular matters in such manner and subject to such conditions as are specified in the award, to such registered associations or members of registered associations as are specified in the award ...

(3) Notwithstanding the terms of a direction under this section—

(a) an employer is only obliged by a direction under subsection (1) to give preference to a member of a registered association over another person where all factors relevant to the circumstances of the particular case are otherwise equal ...

That was introduced by the present Bannon Labor Government and it was supported by the Democrats against opposition from the Liberal Party. I believed that that was a reasonable section to have in the Act relating to preference to unionists and I still do, and see no reason to change to the wording of the Federal Act.

Before going on to analyse that, I would like to inform the Hon. Trevor Crothers, so that he is more accurate in his observations in future, that the Hon. Elisabeth Kirkby (the Leader of the Democrats in New South Wales) is so impressed with this section that I have just read in the current Act that she is moving to amend the New South Wales legislation to take that on board. So much for attempts to show that there is profound differences between Gilfillan and Kirkby or the Democrats in South Australia and in New South Wales. I also want to inform the Hon. Trevor Crothers that Senator Paul McLean, who is the Federal Democrat Senator in charge of industrial relations, shares my view and that of the Hon. Elisabeth Kirkby that the wording in the South Australian legislation introduced by the Bannon Government in 1984 is a reform, is a good wording and satisfactory to have in Federal industrial legislation as well.

I will turn briefly to the Federal sections relating to preference to unionists, because they are virtually the same as those which this Bill attempts to introduce into this State legislation, which the Democrats have indicated they will oppose. These are comments relating to the amendments to section 12.2 made in 1990, that is, last year. That clause clarifies the matters in respect to which preference may be granted, by stating such matters as: engagement in employment, promotion, regrading, transfer, retention in employment, the taking of annual leave, overtime and vocational training.

If one takes the view that a commission has the right to give preference of that nature to a person who elects to join a union but not to those who do not choose to join a union, it appears to me that it would be ridiculous for a person to choose not to belong to a union. In other words, it is an industrial gun at one's head to join a union and it becomes *quasi* compulsory unionism. On that ground alone I am not prepared to support adopting the Federal wording in the South Australian Act.

Further to that, I quote from the *Australian Journal of Labour Law*, December 1988. Page 32 refers reference to the form of preference orders, as follows:

The form of order granted in the Oil Clerks' case became the standard model for subsequent union demands and as a result became the model adopted in a number of subsequent awards in the 1970s. The most important aspects of the new form of preference order may briefly be noted. First, absolute preference rather than qualified preference was without exception the rule.

So, it is clear that the wording of the Federal Act virtually opened the door where the commission sees fit to impose compulsory unionism. There may well be an argument to sustain the proposition—and there is no doubt that this will continue to be put from the other side of the Chamber—that compulsory unionism has its advantages. But do not hold that view. I do not hold that view and therefore I do not see any reason why we should move to any change to the current preference section which is in the Act.

The Hon. T.G. Roberts interjecting:

The Hon. I. GILFILLAN: There may be exemptions, and certainly it is reasonable to say that by introducing the amendment, it does not introduce compulsory unionism across the board; but the fact is that the door and the window are there. I will not pursue the argument. The hour is late and we have far too little time to discuss this matter. In passing, I indicate that, first, we do not have enough time to discuss adequately this Bill in the timetable that inevitably seems to occur in our sittings; and, secondly, there is inadequate time to discuss the Bill because of the lateness with which it was introduced. It was not even available until the morning of its introduction in the other place. I had not seen it, nor did I have clear idea of what was in it.

I have a serious concern about what appears to be the effect of this Bill, and that is the demise of State unions and State independence as far as the Industrial Commission is concerned. It is apparently so that national unions are able, and will continue to be able, to have independent branches in the State, and they will be able to operate to a degree independently of a single central controlled entity. South Australia has a proud history of industrial relations. We have benefited by having those unions and employer organisations based close to the action and supervised by organisations—the UTLC, the Employers Federation and the Chamber of Commerce and Industry—which have been geographically close and therefore much more effective in interrelations.

Our record is not perfect but I believe it is something that we cherish, and I am worried that we may lose it in this push to establish a coherent national framework. It is rather interesting to observe that this thrust is not opposed by the employers. I have had neither time nor opportunity to translate that. Whether it means that employers generally do not see it as against their interests that we are gradually moving to this comprehensive national framework, I do not know. It is a matter which I, as one who is involved and interested in the industrial scene, will be watching very closely. I just hope that by this measure we do not go too far down this track and then wish we could go back.

There is also the argument of rationality that Australia-wide 300 unions are far too many, and industrial chaos and inconsistency can be largely reduced by rationalising the number of unions and employer organisations. It is an attractive argument, but what will be the effect at ground level where the work and industrial relations take place? The Democrats believe that there is very good reason to

look at incorporating in law the right to strike. It is obvious that strike action is an intrinsic part of the industrial scene and an intrinsic right of workers to achieve and hold a fair go in the industrial situations that have existed in the past and will exist in the future. I believe that, well past the debate and analysis of this Bill, we need to look with vision to what will create the most fair and productive industrial climate in Australia, so that all benefit and there is not a winner or a loser—in fact, we will all be winners, to coin a cute phrase.

I am pleased to indicate what many may already know: the matter of the right to strike with real sanctions available against unions who abuse these extra rights is currently being debated by the National Labour Consultative Council. I believe we are still in a state of mobility and dynamic change in the industrial scene and, because of that, I emphasise again that I continue to have some unease at the rapidity with which we are introducing these amendments into State legislation.

I emphasise that I believe the unions have played and will continue to play an essential role in protecting the work force from exploitation. I think it is essential that we recognise that the resources and energy of unions have established the awards from which many workers who do not belong to unions have benefited. I personally have advocated a procedure whereby employees who benefit from awards fought for by unions and who themselves do not belong to a union are required to pay a servicing fee to cover, in part, the cost of that representation from which they benefit. I put that forward as a matter that members might like to consider in the months and years ahead.

Obviously, exploitation has occurred on both sides. One of the responsibilities of this Parliament (as opposed to particular Parties), and one of its essential challenges is to ensure that an even-handed approach is applied and that we attempt to legislate for all those involved in the industrial, commercial and manufacturing scenes in South Australia.

I wish to refer briefly to two relatively minor matters which will be brought up during the Committee stage. I have indicated publicly my intention to move amendments relating to demarcation. Section 25 (1) *(b)* of the current Act to quite a large extent deals with demarcation disputes, as follows:

> . . . any question as to the rights of employees in a specified occupation or calling or in specified occupations or callings to do certain work or a certain kind of work to the exclusion of all other employees or to the exclusion of employees in all or some specified occupations or callings.

That is one of the powers conferred on the commission by the current Act . The commission has the power to hear and determine those matters which virtually cover demarcation. I have some concerns in relation to new section 25 (4) *(b)* of the Bill, and I believe it is the subject of an Opposition amendment. New section 25 (4) provides:

> In dealing with a demarcation dispute, the commission—
> *(a)* must consider whether it should consult with appropriate peak councils representing employer or employee associations and may consult with any such council;
> and
> *(b)* must have regard to the objective of achieving a coherent national framework of employee associations and to any awards or decisions of the Commonwealth commission directed at achieving that objective (and must give effect to the principles, on which those awards or decisions are based so far as may be appropriate in the circumstances of the particular case).

I conclude my remarks by pointing out that paragraph *(b)* is virtually an instruction to the commission when dealing with demarcation disputes to make this national framework the overriding factor or principle. I am concerned that, where there may be every reason in justice for a demarcation dispute to be decided in favour of a registered association which may not fit in at that time to this overall pattern of a national framework, an injustice may well be done to those groups of employees. I have indicated some of my concerns about the Bill, but I indicate again that the Democrats support the second reading.

The Hon. C.J. SUMNER (Attorney-General): In listening to the speeches of members opposite one would be forgiven for thinking that this Bill was mainly concerned with the issue of preference to unionists. In fact, the question of preference to unionists is a very minor part of the Bill. The major thrust of the Bill is concerned with quite fundamental changes to the industrial relations structure operating in this State. Specifically, the Bill seeks to provide for the greater integration of the State and Federal commissions and to rationalise and reduce the number of unions operating in this State.

The greater integration of the State and Federal commissions will lead to greater consistency in decision making and allow a more efficient use of State and Federal arbitral resources. The union rationalisation provisions are historic in their implications and will support Federal moves to reduce the number of unions operating in this country. Fewer unions will mean fewer demarcation disputes. The Bill will also assist employers in negotiating changes which will raise the productivity of the Australian work force by reducing the number of unions with which employers have to deal at the industry and enterprise level.

The Government makes no apologies in seeking to recognise in its Bill the constructive role that the trade union movement has to play in making Australian industry more productive and more competitive. Countries such as Germany have shown the lead in this area in terms of what can be achieved where Governments, workers and employers are able, through structured cooperative arrangements, to achieve superior results for their State and national economies. Germany, for example, has only 17 unions, all of them large and professional. Because of their size these German unions have professional staff and are able to appreciate the macro effects of wage bargains struck at the micro level.

The large unions in Germany are economic realists and are able to deliver wage deals which are economically sustainable and which, over the long run, have led to continuing improvements in the living standards of their members. This Bill is thus part of a larger national strategy by Labor Governments in this country to create a structure similar to those in some other countries, an example of which is the sort of approaches that are adopted in Germany, wherein the social partners can work cooperatively for the common good.

By contrast, members opposite, as is evidenced by their contributions to the debate on this Bill, do not have a clear policy for Australia's future. When members opposite talk about the rights of the individual, when they attack the role of trade unions and argue for the unrestricted access of unregistered associations to the commission it is clear that what they want is something similar to the free-for-all that characterises the deregulated American labour market.

As a model, the American system of free collective bargaining and low unionisation has been recently severely criticised in a major study by a commission established by the prestigious Massachusetts Institute of Technology (MIT). The MIT study identified the anti-union attitudes of American management and resulting workplace antagonism as having retarded the United States' economic performance in comparison with such countries as Japan and Germany,

where such conflicts have been resolved and where the rights of unions to participate in how workplaces operate has been recognised.

The Government believes that the way ahead is to create an environment which will further enhance cooperation between the social partners and Government and which will secure their joint commitment to mutually agreed national goals. To achieve this end there is a need for a legislative framework that will give full and proper recognition to the constructive role that the trade union movement is playing in this country.

The Government's Bill is thus concerned with the big picture, and the amendments sought are aimed at ensuring that South Australia keeps abreast of the dramatic changes that are occurring to the industrial relations system in Australia. The Minister of Labour has called the Bill historic. He is correct in that assertion, and it is disappointing that in their contributions to this debate members opposite had ignored the major issues raised by this Bill.

The Hon. Mr Griffin in his speech was critical of proposed changes to further restrict the use of tort actions in relation to industrial disputes. This issue is very topical, as the ILO has recently criticised the use in Australia of such legal devices to deny workers the right to strike. The Liberal Party in this State has in fact been quite hypocritical on this issue. It says that it believes in the right to strike, but at the same time, if workers do strike, they believe that employers should have the right to stop them through the courts.

The Government's amendment is a reasonable one. It restricts access to the courts provided that the unions work in a responsible manner through the Arbitration Commission. If a dispute is settled through the processes of conciliation and arbitration, that is where the matter should end. Leaving employers with a right to continue to sue for damages when a dispute has been so resolved is not only industrially unsound but clearly cuts across the right to strike which is one of our most basic democratic freedoms.

The Hon. Mr Davis, in his contribution to the debate, argued that the Government's Bill would stifle enterprise bargaining because of the restrictions the Bill would place on the ability of unregistered associations to enter into industrial agreements or to seek awards of the commission. This argument is completely wrong. The State Government does support enterprise bargaining, but only in the context of a centralised system that ensures decisions taken at the enterprise level do not upset agreed national outcomes. The Government is also concerned to ensure that workers who are involved in enterprise bargaining are properly represented to ensure that they are not exploited. Unregistered associations do not have a role under the Federal system and should not have one under our State system. As to the various other matters raised by members opposite, I will address those in the Committee stage.

Bill read a second time.

RACING (SPORTING EVENTS BETTING AND APPEALS) AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 4361.)

The Hon. BARBARA WIESE: When we reported progress, I believed that the arguments had been put for and against the amendment moved by the Hon. Ms Laidlaw, but I was concerned that we should ensure that all members who wished to participate in the vote on this matter should have an opportunity to be present, in view of the fact that for members of the Liberal Party there is a conscience vote on this Bill.

That was not drawn to my attention earlier, and some members who had arranged pairs earlier in the day were not, therefore, available to exercise a vote on this matter. As I understand it, some of those members have now returned to the Parliament, and I believe that we can proceed to a vote unless there is further discussion on this amendment.

Amendment negatived; clause passed.

Remaining clauses (14 to 17) and title passed.

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a third time.

The Hon. DIANA LAIDLAW: I want to say a few words at the third reading, principally because I lead the debate for the Liberal Party on this matter. It was certainly a decision of our Party room to support the Bill. However, I feel very strongly, having proceeded through the Committee stage, that it is a silly Bill. It is farcical, and it is apparent that the Bill does not do what the Minister in the other place, in particular, has led this Parliament, and, I suspect, the bookmakers, to believe it will do.

I want to emphasise that point because the Minister in another place stressed over and over again that this Bill is about assistance to bookmakers and their survival. It is quite apparent from the questions that I asked and the answers that I received during the Committee stage of this Bill that it is nothing of the sort. If the Government were genuine in its commitment to help bookmakers, it would certainly implement at this time the other measures to which the Minister referred and which have been canvassed in the working party report—telephone betting, so-called exotic betting, and a range of other matters. However, the Government has moved only on the issue of sport betting. But, in moving to extend that right to bookmakers, it has also moved to extend the right to the TAB. Heaven knows if and when the TAB will take up the issue. It certainly is not giving any preference to bookmakers.

The Minister said that he did not think that it would help bookmakers if there were any reduction in turnover tax. Yet, in the other place, the Minister talked about these matters as issues of survival to bookmakers. The Government is quite confused about what it hopes to achieve with this Bill and what assistance it hopes to provide to bookmakers. I believe that I am in a most invidious position, having moved these amendments and having indicated support on behalf of the Opposition, because I really believe the Bill is a farce and a waste of time in many respects. If the Government were genuine in its commitment to bookmakers and the survival of the industry, at this time it would have taken up other options in the working party report and not dealt with this matter in such a random manner.

The Hon. K.T. GRIFFIN: I agree with my colleague the Hon. Diana Laidlaw that the Bill is farcical in some respects, but it is also a very sinister manipulation of the range of gambling opportunities that are and will become available. As I indicated during the second reading stage, on principle I oppose the widening of the range of gambling opportunities presented by this Bill—one of a number which have occurred over the past few weeks or which it has been indicated will occur.

I indicate my opposition to the third reading. If the Bill were defeated I do not think it would be a matter of great

moment immediately for bookmakers, if at all, but in the longer term it will make a significant difference to what happens in South Australia and how ordinary South Australians will be affected by the opportunity for the TAB in particular and bookmakers to extend gambling opportunities beyond the events and sports presently covered by the Act. For that reason I indicate my opposition to the third reading as a matter of conscience, and I will be seeking to divide.

The Hon. R.J. RITSON: I, too, oppose the third reading. When this debate began I thought that the issues were simply those of the bookmakers and the consciences of people who approved or did not approve of gambling in principle. However, a serious ingredient has emerged. The Minister has told us that the extension of the range of gambling will net the Government a mere $15 000 because only the bookmakers want it, that it was initiated by them and that the TAB does not want it, in spite of the fact that there was a lot of fighting and lobbying over the restrictions to the named classes of gambling the last time the matter came before the Council and there was the distinct impression that the TAB was empire building in a megalomaniac way.

The Minister has now assured us that the major extension of the effect of this legislation from what the bookmakers wanted for themselves to what it enables the TAB to do was in fact simply a case, of 'we may as well do it while we have the drafting pen in our hand, for the sake of consistency'. I am afraid that a con trick has been perpetrated, but only history will prove that. The Minister put clearly on the record on behalf of the Government that the TAB does not want the extra powers but that the bookmakers do, and that the extension of powers was only for consistency while the drafting pen was to hand and that no extra revenue will flow from it.

Watch this space! I exhort members to watch this space as there is great potential for the TAB to hop into these fields and eat up the bookmakers. I wonder whether the argument as to what will happen to the bookmakers when the TAB extends and covers these extra fields has been canvassed or understood by the bookmakers. We do not know. It has been presented to us as the bookmakers' desire and for the bookmakers' good. It simply enables the survival of the oncourse sportsmans' scene and does not extend the grotty pub and betting shop scene that belongs to the TAB. I am not accusing the Minister concerned, let alone the Minister taking the matter in this place, of perpetrating the con trick, but Sir Humphrey may have conned the Minister. We do not know, and that is the basis of my decision to oppose the third reading.

The Hon. M.J. ELLIOTT: I think that it is time to draw a line and to make a point to the Government. During the earlier stages I said that the Government must accept some responsibility in relation to gambling. I stress again that I am not anti-gambling. Clearly, to allow it is consistent with the other libertarian attitudes that I hold on such issues. However, the Government's insistence on the expansion of gambling opportunities and the positive promotion of gambling that we see is unhealthy. We have seen a growth in Government revenue in five years from $54 million to $128 million. In view of what is happening with gaming machines and the potential that offers, I expect that within two years we shall see revenue out of gambling hit $200 million. I do not think that is an unreasonable expectation. Considering the growth already there, I think that $200 million is probably conservative.

When we consider that the Premier offered an inquiry into gambling and when we consider the reports that are coming from SACOSS, women's shelters and the like, in which the difficulties associated with gambling are being pointed out, to expand gambling further without examination is totally irresponsible. The Government claimed that this is, relatively speaking, peanuts, but the potential is clearly much more than that. Therefore, I really want to draw the line.

I am not saying that at some future time gambling and these other things may not be acceptable—in fact, they may be—but there might be a deal such that TAB should not be promoting gambling as distinct from allowing it to occur. That is the line that I try to draw on tobacco, alcohol and other things which people may find morally unacceptable. What I claim is immoral is not gambling, but that the Government should be positively promoting it when we are aware that it is causing harm. I believe that the Government has behaved irresponsibly. For that reason, I shall oppose the third reading.

The Hon. BARBARA WIESE (Minister of Tourism): I will not delay the Council, but I want to take up a couple of points that have been made on the third reading of this Bill. The Hon. Ms Laidlaw suggested that there may be some inconsistency between the remarks that were made in another place by the Minister of Recreation and Sport and some of the comments that I made during the debate in this place about the likely impact of the passing of this legislation. I should like to reiterate what I said earlier about viability.

Earlier, I indicated that the request for this legislation came from the committee that was established to look at the viability of the bookmaking industry. Although this measure was not considered by the bookmakers to be the making or breaking of the industry, it was part of a package of measures put forward by the working party representing the interests of bookmakers as being the sort of package that they considered would be appropriate to preserve their viability. The other matters upon which that working party reported are still under consideration by the Minister and his officers.

The second point relates to the suggestion by the Hon. Dr Ritson that this is some sort of sinister plot surreptitiously to extend the powers of betting services—

The Hon. R.J. Ritson interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —to enable the TAB somehow or other to cash in. I would simply like—

The Hon. R.J. Ritson: Not surreptitiously.

The Hon. BARBARA WIESE: Oh, shut up!

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I would simply like to remind honourable members that the powers that were extended to the TAB in 1986, which allow the TAB to provide a betting service for cricket and the Australian Formula One Grand Prix, among other sports, were tested by the TAB.

For example, the TAB started a betting service on cricket and discovered that it was not a profit-making exercise and ceased to be involved with it. I imagine that the TAB has been influenced by its testing of the waters at that time and decided not to make any further requests of the Government for an extension of its powers. I simply wanted to place those matters on record, and I recommend to the Council that the third reading be supported.

The Council divided on the third reading:

Ayes—(15)—The Hons. T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, J.S. Irwin, Diana Laidlaw, Anne Levy, R.I. Lucas, Bernice Pfitzner, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese (teller).

Noes—(6)—The Hons. J.C. Burdett, M.J. Elliott, I. Gilfillan, K.T. Griffin (teller), R.J. Ritson and J.F. Stefani.

Majority of 9 for the Ayes.

Third reading thus carried.

CITRUS INDUSTRY BILL

Adjourned debate on second reading.

(Continued from 9 April. Page 4162.)

The Hon. PETER DUNN: I rise to support this Bill, which was introduced very recently—but I have had my water cut off a bit by the Hon. Trevor Crothers, so the yield on this occasion might not be so good. At one stage, at about 10.30 p.m., I thought that the Hon. Trevor Crothers had been plugged into Torrens Island Power Station. He circumnavigated the world. Because of that, I will not spend a lot of time on the Bill.

Members interjecting:

The PRESIDENT: Order! I cannot hear what the honourable member is saying. The Council will come to order.

The Hon. PETER DUNN: Thank you, Mr President. I will put down some facts and say that we will support the Bill, because it does not make a huge change to what has happened in the past. In the past, the board has worked well, diligently and, in latter years, has had a very hard task to perform, due to the fact that Australia has been under great pressure from imported fruit juices, and so on, particularly orange juice from other nations. However, I guess this Bill does upgrade the selection, and I will say a little about that in a minute.

I will read what the Bill actually does, and I think the Minister's second reading speech emphasises that quite clearly. It states:

> The object of this Bill is to provide for the establishment of a new, restructured citrus board to organise and develop the citrus industry and the marketing of citrus fruit, regulate the movement of citrus fruit from growers to wholesalers, set grade and quality standards for fruit, provide for powers to be used to set prices and terms of payment for processing fruit in the event of market failure and increase the flow of production and marketing information throughout the industry.

That fundamentally sets out the role of the board. If that is the case, perhaps we should look at a few figures in relation to the citrus industry in this State and, in fact, probably the Australian figures would be better. These figures are approximate. In 1960, South Australia produced 34 000 tons of citrus; in 1968, 89 000 tons and in 1990, about 200 000 tonnes. That is being produced from about 950 properties and from about 8 000 hectares of citrus plantation. The old adage has attacked the industry; that is, get big or get out, so there will be fewer and fewer properties, I would suspect. It is likely that there will be a fairly rapid increase in production in future on the properties now in production, because about 22 per cent of the trees are quite young and are not yet in production. So, when they come into production in the next few years, there will be another quite rapid rise in production, I would suspect. I happen to be one who believes that that is good, because it will indeed provide this State with some more export income in the long term.

When this board gets going again I am confident that we will be able to sell our product overseas and try to get this country back into an export mode, as opposed to what it is doing now, when we tend to buy imported televisions, cameras and video machines and Toyota vehicles. I am not singling them out for any particular reason, but we have exported our nation's wealth to other countries and we have not exported our own products, so we are in the dire straits that we are in now.

If the production in South Australia and Australia is compared with that of the rest of the world, we are very small beer. In fact, we produce only about 1.26 per cent of the world's citrus product. The biggest producer in the world is Brazil, which produces more than one-quarter of the world's citrus, yet Australia believes that Brazil is a developing nation and therefore gives it special consideration when trading with it. I will perhaps deal with that shortly. The USA produces about 24.19 per cent of the world's citrus product, so the USA and Brazil produce half the world's citrus product between them. An interesting fact that I did not know until doing some research is that Japan produces about 5.4 per cent of the world's citrus.

The Hon. M.J. Elliott: They would need their crop, too.

The Hon. PETER DUNN: That is true. It gives some idea of what a very small nation like Japan can do, and I would have thought that the climate was relatively harsh for citrus fruit. But because they give their producers very special deals, no doubt, it is economic for them to do that. A white paper was put out by the South Australian Government in May 1990. In fact, an inquiry into the citrus industry, in particular marketing, was held in December 1977. What is happening today, and reflected in this legislation, has been out on the field for some time, and most people in the citrus industry understand what this Bill provides. One problem that the citrus industry ran into, particularly in the past couple of years, was the dumping of product from countries such as Brazil. Other countries have been involved—

The Hon. M.J. Elliott: Mexico.

The Hon. PETER DUNN: Yes, the southern American States and Mexico. That dumping was a result of our Federal legislation—not State legislation. There is no point in going into a long debate about that, other than to say it has proven to be very difficult to stop dumping. Under our present legislation, it is difficult to prove that those countries were dumping. To be quite honest, we should adopt a retrospective or reverse onus operation, where those countries should be stopped from dumping and then let them prove that they are not dumping because, under the present system, you cannot get information from countries quickly, and our own legislation deems that it takes about eight to 10 months to get the information to the anti-dumping board for it to make a decision.

It is very difficult trying to compete against European countries, for instance. It is like hitting your head against a brick wall when trying to get information from a nation like France. There really ought to be some Federal legislation but, as I have pointed out, this Bill does not really handle that. However, in a vicarious manner, it does, because later on it regulates marketing and prices, and they are influenced by what could come into this country via some other country trying to dump its product.

Under the present system, it is quite reasonable to assume that a country could, in fact, bring in a couple years' supply of concentrated orange juice, very cheaply, and that could be kept under refrigeration and later sold on our markets. That could be done within a couple of months and, under the present system, with an eight month period to stop it,

the damage is done. So, that aspect needs to be very carefully looked at.

That brings about micro-economic reform. I could spend some time on that topic, but I simply say that it is very interesting that rural industries have been deregulated by the present Government, yet we do not see very much deregulation of wages, the waterfront or transport. There have been several inquiries into some of those matters, but very little action has been taken on them. I suspect that nothing much will be done under this Government because primary industry has nowhere to go. We cannot just put up our prices—and I am referring to primary industry in general and not the citrus industry in particular—because we tend to sell on an export market. Therefore, we have no option but to accept the price that the export countries bid for our product.

The Government's very erratic policy has led to problems within our State and within the citrus industry. The board has attempted to rectify the situation, but has found that very difficult. I just hope that the future will be better. To get a citrus orchard up to full production is a very expensive operation. I suspect that it would cost between $25 000 and $30 000 per hectare, which is a lot of money, before a return is made. Under the present system there is a big risk because the markets are very flexible and, therefore, it is quite likely that a very poor return would be achieved on a small capital outlay. Compare that situation with a public servant who, having been employed, is virtually unsackable and therefore has a job with no risk. That does not happen in primary industry. As I pointed out before, the role of the board is to set prices in terms of payment and to regulate products and provide market information.

An honourable member interjecting:

The Hon. PETER DUNN: I suspect that it would not be set up. The board may use those powers, and I suspect that it will use all of them at some stage during its lifetime. I hope that is what it is set up for because the former board operated in similar fashion. The board was set up under section 9 of the Act, as follows:

> *(a)* one shall be a person appointed by the Governor to be the Chairman of the committee;
> *(b)* four shall be persons who have been duly elected by registered growers in accordance with this Act; and
> *(c)* two shall be persons who, in the opinion of the Governor, have extensive knowledge of and experience in marketing.

In other words, applicants for the board were virtually appointed by growers, processors and marketing organisations. Under this Bill, and in a number of Acts, we have seen the Minister distance himself or herself from the board. That is done by setting up a selection committee. However, to set up a selection committee another committee is required.

It is very interesting to look at how that is done. With respect to the Citrus Board selection committee, five members will be selected from 10 applicants from different areas, whether they be growers, marketers or processors, with the Minister having an input in that selection process. So, there is that sort of distancing from boards. This gives the Minister enormous power. It is a board by selection rather than election. The Minister has the right to select the board from the people put forward by the industry.

That is not accepted in a lot of areas of primary industry in this State, but it has been accepted by the Citrus Board because I think it knows how the board has worked in the past. If that is amenable to the board, who am I to disagree with it? I accept that in this case, but there are sections of primary industry that will not accept and would like to have an election process where they themselves can nominate who they wish to represent them on those boards.

Another important thing the board has to do is prepare a plan five years in advance. This Government is great at planning, but I doubt whether, in the sunset of this 47th Parliament, and considering the way it has organised this evening, for instance, it could run a bath. It will be up to the Citrus Board to plan ahead for five years, and I think that it will probably do that and do it well, knowing its past history. The growers have no objection to that. In fact, I think it should put their industry in great stead. The board has other uses, too, for export and marketing. Planning ahead is something that occurs on every farm and citrus block; in every walk of life today there has to be a fair amount of planning.

The board will decide whether to permit the sale of fruit on the roadside. This is a new provision in the legislation. Some people did not want that to happen, but it is happening now. I think that it works and adds a little colour to the life of South Australia—the little stall, truck or ute at the roadside that sells fruit. Sometimes the fruit is good and sometimes it is not so good, but I guess *caveat emptor* prevails in that situation. People have the right to refuse those products. If you buy a product and you are not happy with it you can take it back, or not buy there next time, or you look at the fruit before you buy it.

The board also fixes prices and can issue orders. Those matters can be teased out a little more during Committee. Regulations are provided in the Bill which, I guess, we will see come into this Parliament in due course. The Opposition supports the Bill. A small amendment proposed by the Liberal Party to extend the size of the selection committee was made to the Bill in the Lower House. I understand that the Democrats have some amendments; we will have something to say about them when we come to the Committee stage.

The Bill needs to be enacted this session so that it can be up and running very shortly. It was thought that this Bill would pass in the last session of Parliament but, due to poor management or whatever, it did not, so we had to extend the term of the old board. The Bill must pass before the long recess so that the board is up and running to assist the growers. For those reasons I support the Bill.

The Hon. M.J. ELLIOTT: This legislation has significance well beyond that which is obvious from looking at the Bill itself. Over the past five years or so since I have been in this place the Government has been attempting to abolish or severely limit the powers of boards. Quite early on, I think it was probably 1986, the Potato Board was abolished with the cooperation of some members of the Liberal Party. The Government next eyed the Egg Board, but a few significant members of the UF&S were a bit worried and the Liberal Party held firm, although there was some watering down of that board.

Last year, we were considering a very different Bill from the one that is before us. It was a Bill that was supported by the UF&S, which has been heavily into deregulation, but it did not have the support of a substantial number of the orange growers in the Riverland. The Government was being badly advised. The Department of Agriculture relied entirely on the advice of the UF&S, and the UF&S quite simply had a poor understanding of many of the horticultural issues, particularly those effecting the Riverland. I do not think it understood the depth of feeling that was being created by the original proposals put forward by the Government.

I would like to believe that this Bill, which is a significant improvement on original proposals, is an indication that the worst of the deregulation madness is over and that we may be moving now into a phase of sensible regulation. That is what we need. Certainly, anyone can point to any number of bodies or regulations that have become irrelevant, but to suggest that there should be no rules, regulations or, sometimes, supervisory bodies is an absolute nonsense.

The Hon. Mr Dunn made note of the difficulties in the orange industry. Some people may think that, because things have gone quiet over the past couple of months, perhaps the citrus industry is over the worst of it. Given information I have received over recent weeks, the orange industry might still have its worst days yet to come. I attended a hearing of the Senate standing committee, which considered dumping, and a witness before that committee from Berrivale, the major processors of orange juice in Australia, said that they expected that when the navel orange crop begins in June, it will be offering a price of $25 per tonne, which compares with the starting price at the beginning of the navel orange season of about $120 per tonne. At that sort of price, quite clearly the producers cannot survive. When last year's season started at $120 per tonne, that was cause for severe concern.

Later, it was the Valencia season, and it was at that stage that the crisis really started to hit. It lead to concern being expressed by a large number of demonstrators on the steps of Parliament House ealier this year—a demonstration of not only orange growers but also other horticulturalists who shared common concerns. Those concerns related to labelling, and dumping, but I think they related to a lot more as well. It is suggested that navel oranges will be $25 a tonne. At least, MCGCA calculated a price ranging between $8 and $42 per tonne, for juicing oranges. It will be possible to bring in pulp wash from Florida. Pulp wash is juice that is extracted from a second squeeze of the oranges and from the skins. Allowing for Australian processing costs, and to compete, it will be possible to offer only $25 a tonne for navels. The Government is proposing to remove the 10 per cent sales tax preference to orange juice products—in fact to all fruit juice products which are at least 25 per cent Australian. I believe there will be a 3 per cent drop in tariffs by then. The combination of those two factors will mean that producers who were formerly using Australian products, will start using overseas products.

I add that pulp wash is a product not used in the United States but is simply exported and I doubt that dumping regulations would pick it up. It is not being sold at a lower price because it is simply not used in the United States at all. The Hon. Mr Dunn talked about dumping and the need for changes in dumping legislation. I agree, but only a fool would believe that that would be sufficient to protect the Australian industry in the long run.

How can we possibly expect an Australian grower to produce citrus cheaper than someone in Brazil or South Africa? We should not forget that South Africa will be back in the trade soon, and there are a number of Asian nations that do not have the same wage structures, rules about what chemicals can be used, rules in respect of occupational health and safety, and WorkCover requirements.

We require our growers to conform with many laws, all of which I support, and then we tell them to produce material as cheaply as nations that do not have the same rules. In the long run we will face problems from these nations, dumping or not.

Certainly, we can hope to do well in the export market by producing a quality product but, even if we pack out 60 per cent of the fruit as export quality, the other 40 per cent still needs to be juiced and we can never ignore the importance of the juice market and the need to protect it. If we do not protect it, the whole citrus industry will suffer. I am still gravely concerned about the position of the citrus industry and I expect that over the next couple of months we will see increasingly bad news. I do not wish for bad news but, if the evidence that Berrivale and MCGCA were giving to the inquiry was correct, one cannot help but expect that we will encounter real problems ahead.

The Hon. Mr Dunn made note of clause 32 and talked about the board having powers to fix prices and terms and conditions of sale. That is something that the Government was resisting strongly. It is something that was not in the old legislation and the wording has been chosen carefully.

I know that some growers are nervous about the wording as it now stands, because it provides that the board may, with the approval of the Minister, by order, do those things. If the Minister does not grant approval, it simply cannot do them. It is feared that it is something of a Clayton's clause and it may never become operable. For that reason, I intend to move a fairly subtle amendment. Its effect would be that the board would have the power in the first instance to make those orders, with the Minister then having the right to overrule the board. There is a subtle political difference in the way it operates, but it makes clear in the first instance that it does have power to do those things. I hope that the Opposition will pick up that difference and recognise that the Government has in the recent past resisted giving these powers to the board. There is no reason to believe it will do this just because it is mentioned in the Bill.

Another significant area new to the Bill concerns direct selling by growers, particularly by members of the Growers Unity Group who took on the board and the Government. They went around the Citrus Board and started direct selling from roadside stalls. Its members are now looking at setting up a growers market in Adelaide—potentially a couple of markets—where growers can take their produce and not be fleeced by middle people, as they frequently are.

I see direct selling as something of a double-edged sword. If it was happening on a large scale, direct sellers would be receiving a good price for their product, but it would put increasing pressure on other retailers to lower their price to compete and lower the price that they are willing to pay for fruit. The direct selling growers might benefit while those who are not might find themselves in a more difficult position.

[*Midnight*]

That is something that we will need to keep a very close eye on. At this time I do not see that risk as being too great. I believe that approximately 20 growers are regularly selling from roadside stalls, and we may not see many more than that becoming involved in direct selling once a growers' market is set up. However, on the other hand, if growers are looking at $25 per tonne for navel oranges, we might find huge numbers of them coming to town in absolute desperation, trying to find some outlet for their crop.

As I said, it is a two-edged sword. I understand why there has been pressure for direct selling. I believe that the middle people have quite regularly ripped off the growers. Certainly, the retailers have done so on many occasions. Between them, the Myer-Coles Group and Woolworths now dominate 50 per cent of the supermarkets in Australia, and I suspect that they probably have more than 50 per cent of the fruit and vegetable market. Fruit and vegetables happen to be their biggest profit lines, and those huge profits are

being gained at the expense of growers. As I said, I understand why growers want to circumvent that system. I will leave other comments until the Committee stage.

The Bill is vastly improved from that which the Government first proposed. The MCGCA, which was extremely concerned by the earlier proposals, as distinct from the United Farmers and Stockowners Association, which was quite happy, are now relatively relaxed. I think that they still have a couple of concerns, and probably the biggest now is that the Bill should pass, since the Citrus Board has been unwilling to do too much of recent times because it knew that a new Act was proposed, and it wanted to know the form in which the new Act would be presented. I support this Bill. We will be moving some amendments which I think are constructive, and I hope that they will be given attention by this Council.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Membership of board.'

The Hon. M.J. ELLIOTT: I move:

Page 3, line 12—Leave out 'seven' and insert 'eight'.

This amendment is linked to a later amendment to line 14 which has the intention of increasing from three to four the number of growers on the board so, consequently, there is a need to increase the size of the board from seven to eight members. I believe that the interests of the growers are the most important to be represented on this board, and I do not think that it is unreasonable that they should have half the membership.

The Hon. BARBARA WIESE: The Government opposes this amendment and, in doing so, I indicate to the Committee that this Bill and all aspects of it have been the subject of a three-year period of consultation. As has already been indicated by those who contributed to the second reading debate, a number of issues have been quite controversial, and it has taken quite some time for the relevant bodies that have an interest in this matter to reach a consensus on some of the issues that are dealt with.

The proposed restructuring of the board is designed, primarily, to give representation to growers, as we would all want, and to ensure that appropriate marketing expertise is available to the Citrus Board to assist it in making decisions that will be in the long-term interests of the citrus industry.

As members have outlined during the course of the second reading debate, many very serious issues are facing the citrus industry in South Australia. The industry faces enormous international competition. It is very important that the board should comprise people who have the very best range of expertise and skills possible so that the decisions made, which will have such an impact on the livelihood of growers in South Australia, will be in the best interests of all concerned. Both the Murray Citrus Growers Cooperative Association and the United Farmers and Stockowners' citrus section have been consulted on this matter, and both those organisations, which repesent the vast majority of growers in this State, have indicated that in their opinion the wording of the Bill relating to the membership of the board is satisfactory. As this is the outcome of such a long period of consultation, I strongly encourage the Committee to support the Bill as it stands, and to reject the Hon. Mr Elliott's amendment.

The Hon. M.J. ELLIOTT: I think that the word 'satisfactory' needs to be seen in the light of the situation that the industry was facing at one stage. We are talking about three years of consultation. What was proposed until less than a couple of months ago was positively disastrous, because the consultation process did not reach the people whom it should have reached. The position we have now is that groups such as the MCGCA are saying, 'Thank goodness we do not have the disaster we almost had.' That is being interpreted as being 'satisfactory'.

Certainly, in correspondence with me, the point has been made that the interstate Murray Valley Citrus Marketing Act provides for grower majority. There is nothing about my proposal that reduces the expertise of the board; all the other experts are there. Because of the selection panel process, we are not just throwing any old grower onto the board. The growers themselves will have skills that they can contribute, as well as knowing how to grow citrus. The arguments are not valid; the expertise remains there. It simply means that growers retain the balance of control of a board which, after all, ultimately serves their interests.

The Hon. PETER DUNN: The Liberal Party agrees with the amendment for a couple of reasons; first, it happens interstate and there is a grower dominance. That is fair and reasonable. I cannot see the Medical Board having much other than medicos on it. It may have special expertise, but that is available also within grower organisations and I would have thought that, under the mechanism we have today to select that board with the great number of people from whom the Minister has to choose ultimately, the people with the expertise could be found within the grower organisations. The grower cannot do anything about his prices and in the long term he has to suffer if things go bad. He is at the end of the line. The processor and marketer can often diversify, move into other areas or shift things around, but the grower cannot. He has a capital asset that he cannot rip up today. Even in the wheat industry we can diversify into barley, but the citrus and stone fruit industries find it difficult to change.

In the long term there are three or four organisations, including the growers' cooperative, the Riverland Growers Unity Association, and the United Farmers and Stockowners, which is a relatively small group. There is a variation and I cannot disagree with one more. It is only another voice. It is not taking away but only adding another voice. I would have thought that it would not do any harm but would give growers some confidence.

The Hon. BARBARA WIESE: I indicate, first, that the Government agrees entirely that it is important to have growers on the board and, in fact, the proposal in the Bill provides for at least three members of the board to be growers. It also provides for three other people who have expertise in other areas, in particular in marketing. In addition the Minister has the power to appoint the Chairperson and the seventh person could well be a grower. Adequate provision exists for growers to be represented on the board as it is structured in the Bill. I remind members that primarily the function of the Citrus Board is a marketing one. It is about finding ways of assisting growers to sell their product and no amount of growing expertise will be useful in that marketing function so it is important that the board be structured to provide the right range of expertise to assist growers in selling their product.

Amendment carried; clause as amended passed.

Clause 6 passed.

Clause 7—'Procedures of board.'

The Hon. M.J. ELLIOTT: I move:

Page 4, line 29—Leave out 'Four' and insert 'Five'.

This is a consequential amendment.

Amendment carried; clause as amended passed.

Clause 8 passed.

Clause 9—'Establishment and membership of selection committee.'

The Hon. M.J. ELLIOTT: I move:

Page 6, lines 11 to 12—Leave out ', in the opinion of the Minister, substantially involved in the citrus industry' and insert 'prescribed'.

It has been fairly usual practice over the past couple of years that, whenever we have set up boards or committees on which there are grower representatives, as far as practicable we point out who should nominate them and how many people should be nominated from each of the groups. We face a special problem in relation to the citrus industry, because three groups claim to represent it. For that reason, they cannot be included in the legislation. We have the MCGCA, the UF&S and the Growers Unity Group. There is no doubt that all three groups represent significant numbers of orange growers.

I am reluctant to leave it to the Minister to decide how many there should be from each group, or even taking any from some groups, and having the power to do that alone. One of the problems with the original drafting of the first Bill that did not come into this place was that one of the three groups had the Minister's ear. I do not believe that that group was saying things that were representative of the great majority of growers. The Minister, or his advisers, erred badly in that they were not getting advice widely enough. At that time the Minister would clearly have asked that one group to put up most of the people who were to serve on the selection committee.

While I recognise that we do not want to name the three groups within the Bill (partly because the industry is in flux and possibly one of the three groups may not want to continue to represent the citrus industry, or there could be mergers or whatever) we can do it by way of regulation so that the Parliament is satisfied at this stage that the three groups, or whatever occurs in future, will be adequately and fairly represented. I believe that can be done by regulation. I do not like the idea of leaving it to the Minister. What is the point of having a selection panel which is supposed to be representative of growers if the Minister decides which group he thinks will represent them best and gets that group to nominate the people to serve on the committee? There is a bias in the selection process at that point. If we are to be representative, we should require the Minister to make clear how many representatives he will draw from each of the groups representing citrus growers, and the Parliament should say whether that is reasonable.

The Hon. PETER DUNN: I can short circuit this by saying that the Liberal Party does not agree with the amendment. If we prescribe, we have to write it into the regulation, and we might prescribe the wrong one. This amendment would restrict the Minister's choice. In my opinion, the Minister, having read his speech in the other place, would avoid some groups at his own peril. There would be a very loud outcry if he missed one of the substantial groups. I suspect that, for those reasons, he would invite them to make their peace and have their say. Certainly, by prescribing it, the process as it is now envisaged will be slowed, and we do not support it for those reasons.

The Hon. BARBARA WIESE: The Government opposes this amendment as well, and I would remind the Hon. Mr Elliott that this panel does not represent only the interests of growers; it represents people who have a substantial interest in the industry, and that includes packers, processors and people in the marketing sector, so there are many more than three organisations that the Minister must consider when decisions are being made about the composition of the membership of the panel. The Government believes that the provisions now included in the Bill provide quite adequately for the appropriate decisions and for weighting to be given to the various interest groups within the industry. We therefore oppose this amendment.

The Hon. M.J. ELLIOTT: I realise that I do not have support for my amendment, so I will not protract this debate. I clearly recognise that there are other groups. I was making the point that in relation to growers, as things are now set up, the Minister could decide substantially to bias his or her choice from one of the grower organisations, which may not be adequately representative of the relative strength of those organisations and the number of growers that they represent. I just wanted to firm that up. I must say it is quite unusual for the Liberal Party not to want to put certainty into Bills and to leave things blank, so I am rather surprised.

Amendment negatived; clause passed.

Clauses 10 to 31 passed.

Clause 32—'Power to issue marketing orders.'

The Hon. M.J. ELLIOTT: I move:

Page 16, line 13—Leave out 'with the approval of the Minister,'.

I intimated during the second reading stage that I would be moving an amendment here. As I said, it may appear fairly subtle on the surface, but it is very deliberate. Until relatively recently, the Government quite clearly had no intention whatsoever of giving these powers to the board. It is quite clear that it had no intention of allowing the board to set minimum prices, terms and conditions for payment. As currently written, there is still no requirement for the Government actually to give that power to the board. As I said, what I have here is a somewhat subtle change, in that the board has the power in the first instance and the Minister may decide to overrule a minimum price or terms and conditions that it sets, or whatever that the board sets, so the power ultimately resides with the Minister. However, it gives somewhat more certainty that this clause is not just here for window dressing but that it is intended that the board generally speaking exercises those powers, as I believe it should be able to do.

The Hon. PETER DUNN: The Opposition does not agree with this amendment, for the very reason that, if this were introduced as it reads now, its administration would lead to terrible trouble. The legislation provides that the board may act with the approval of the Minister. Therefore it is quite reasonable to assume that the board would go to the Minister first and suggest a price, rate or term, and that is what is being done in this clause.

Having reached an agreement, maybe after some negotiation, it goes out and sets a price, rate or term, but imagine if the board decided on a rate, term or price for three months and, after two months operation, the Minister's ear was chewed and he or she decided to change the conditions half way through. There would be chaos. As I read this amendment, that is just what it would allow to happen. The way the Bill is currently worded, it appears a more sensible approach in that the Minister or the board would reject each other's offers right at the beginning and there would not be any problem with growers having a diversity of opinion even after two months and 14 days. I could see possible problems with this amendment. I can understand what the honourable member is trying to achieve, and I have some sympathy for it, but I do not think it will work.

The Hon. M.J. ELLIOTT: I said that the change was subtle, but it was also a very deliberate move. Of course you would have chaos if the Minister kept on intervening—that is the very point I was making. The way it is worded, the board will have the power and the Minister would have to make a very deliberate attempt to override that power because of the risk that it would create chaos. No Minister would do that without very good reason, for instance, if it was felt that the board was way out of line.

We are looking at powers that the board currently has. Perhaps it does not always exercise them, and it will not be guaranteed to have them as the Bill currently stands. Remember what the Government has tried to do with other agricultural products, including milk, where it has been very keen to remove the minimum price. If the Bill remains unchanged, there is a very real chance that the power of minimum pricing will be taken away. With the Government's present record, it may not let all those powers be exercised. That is a very real risk, so I ask the Hon. Mr Dunn to think very carefully about that. The Government's record is there on other products. Once this legislation is passed, there will be no guarantees as to what will happen. If this amendment were accepted, the Minister would have the power to overrule, but would have to think very seriously about it.

The Hon. BARBARA WIESE: The Government also opposes this amendment. Members would be aware that the Minister of Agriculture in another place in fact made a very deliberate and considered decision to make this concession to retain a reserve power for price setting for the processing of fruit. Whilst the Government supports a reserve power of this kind to be used when demonstrably necessary, it does not believe that it is a power that should be used as a matter of routine.

The procedure outlined in the Bill allowing for the board to consider these matters and then, with the approval of the Minister, to proceed with them, is the appropriate procedure to follow. It is a procedure which is believed to be satisfactory by the major organisations, and I cannot see that the proposal put forward by the honourable member would improve the situation at all. In fact, we would create something of a seesaw situation where there would be an undermining of the board's responsibility rather than an enhancement of its powers, and the Minister would be the meat in the sandwich.

If we are suggesting that the Minister should somehow have a power of veto, this raises the question of to whom the Minister should turn for advice if this important industry body is not the body from which the Minister should seek advice or guidance on this matter. If the Minister is put in the position of having to use a power of veto to revoke a decision—as, I believe, could occur under the structure proposed by the Hon. Mr Elliott—then he would not make that decision lightly. He would have to draw on some expertise and have the matter studied. It is not clear from what the honourable member has said from where the Minister would draw that expertise, as he would have to examine proposals put forward by members of the board.

I think this proposal is unworkable and unnecessary. The structure provided in the Bill is perfectly adequate. It provides the right sort of balance and it is more likely to create an environment in which the industry, the board and the Minister can work cooperatively and constructively, in the interests of the industry whenever these matters have to be considered.

The Hon. M.J. ELLIOTT: The level of satisfaction amongst grower groups has been misrepresented. I quote from a letter that I have received from the MCGCA as follows:

> We would have preferred that the Minister be able to delegate the power to set minimum prices to the board and that minimum prices be set for a season rather than for three months. Given that the inclusion of this clause represents a significant concession on the part of the Government—

meaning that the Government had no intention of including such a clause in the Bill, and that is where the government is coming from-

> we would be reluctant to further push the matter. Accordingly, it is our view that the current wording of the Bill is satisfactory.

It is saying that the wording is satisfactory only because it is better than nothing, which is what it was facing. I put to members that if the Government's approach is that it does not want this position, what is the real expectation and the real chance that it will delegate that power to the board? I simply do not believe that it will do it. If the Bill stays in its present form and if my amendment does not succeed, I think that will be proven within months—doubles peak.

The Hon. PETER DUNN: I refer to what I said originally, that I think the grower will be hurt if a change is made part way through. As I read the honourable member's amendment, after line 11 he proposes to insert a new subclause as follows:

> The Minister may revoke an order published by the board under the section.

So an order is already made to fix a price for three months or to fix the rate of commission or the terms and conditions of sale for 12 months. He then has the right under the amendment, as I read it, to change that situation further down the track. That could create chaos between the Minister and the board because it would disadvantage one or other of the groups depending on the decision that was made. I suggest that it would create a breakdown.

The Hon. M.J. ELLIOTT: The point I am making is that, if the Bill remains as it is, the board would probably not set minimum prices or would not have minimum terms of payment, etc. I do not believe that the Minister intends to delegate those powers. The honourable member talks about chaos, but I do not think that that situation would arise if my amendment were successful. But it is quite clear what would happen if it is not successful. We will just have to wait and see.

The Hon. BARBARA WIESE: Just one final word. The Minister in another place clearly acknowledged the circumstances in which he would envisage a reserve power of this kind being used. He spoke in particular of the situation that occurred here in South Australia late last year when there was a sudden and severe collapse of prices. He envisaged that in circumstances like that this would be the sort of power that it would be appropriate to use. I think that the Minister of Agriculture is a person who is noted for being a man of his word, and he would follow through on what he has said.

Amendment negatived.

The Hon. M.J. ELLIOTT: I will not be moving any of the remaining amendments I have on file because they were consequential on the amendment just lost.

Clause passed.

Remaining clauses (33 to 37), schedule and title passed.

Bill read a third time and passed.

[Sitting suspended from 12.39 to 10.30 a.m.]

INDUSTRIAL CONCILIATION AND ARBITRATION (COMMONWEALTH PROVISIONS) AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. K.T. GRIFFIN: I want to make a few observations following the arrogant and bullying comments of the Minister of Labour, Mr Gregory, reported on ABC radio this morning. I take great exception to the arrogance of that Minister trying to tell us how we should deal with our legislation. I want to put it firmly on the record that, if he embarks upon those sorts of arrogant and bullying tactics,

he will not get the legislation. He ought to recognise that he does not control Parliament—the Parliament controls Parliament. So far as the Legislative Council is concerned, we control the business, not him.

He is the person who has to accept responsibility for the fact that this Bill has been in Parliament for over two months and that he has been the one who has had the responsibility for deferring consideration of the Bill when it could have been done some time ago, but it was a bit too hot to handle at the time. I suspect the Minister believed that, by attempting to push it through in the last two weeks of the session, he would create such pressure upon individual members who wanted to get away from the pressures of this place that we would be forced to short circuit consideration of this Bill. What happened was that the Minister finally decided that the Bill should come on for debate last week. My understanding is that the Liberal Opposition heard about that only on Tuesday of last week, after Easter, when the usual consultation occurs between the Deputy Premier and the Deputy Leader of the Opposition. At that stage it was indicated that the Bill would be considered in the House of Assembly that week.

As it was, the House of Assembly took nearly two days to consider it, and quite rightly because it is a Bill of quite major significance for South Australia, and it reached us on Tuesday of this week. In the normal course, under our Standing Orders, the second reading debate should have been deferred until Wednesday. The Opposition volunteered to do three speeches on Tuesday night, which required a suspension of Standing Orders, and we facilitated the consideration of the Bill through the subsequent second reading stage. So, the Minister cannot say that the Legislative Council or the Liberal Party in particular has been uncooperative. We have been specifically cooperative in a desire to give proper consideration to this legislation, but we will not be pushed in the Committee consideration of the Bill.

We will endeavour to be efficient in the way in which we deal with the various provisions of the Bill. Divisions will occur, and that is our right. We will give fair and reasonable consideration to the issues which are raised in the Bill. Members may become a bit irritated if we do make our point and respond to matters which are raised by other members, whether on the Government side or the crossbenches, but this is, as I say, a major Bill for South Australia because it locks us into mega unions and to the Commonwealth decision-making process and removes a great deal of the autonomy and flexibility which has previously applied to South Australia.

We have a right as the Legislative Council and as individual members to make these points, to debate them and to put matters to the test, ultimately in a division. As I say, there will be a number of divisions and I make no apology for that, because we believe that the issues are significant. We will endeavour to give efficient consideration to the Bill. So far as sitting on the weekend is concerned, let me say that I have no intention of being in this place over the weekend and, if we cannot complete the consideration of this Bill today, we will do it next week. I have no problems with that at all.

We in this Council, members on both sides and on the cross benches, have worked hard to deliver the Government's program and we will not be bullied by an arrogant Minister of Labour who thinks he can push us around and not give us proper time to consider the major issues in this Bill. That having been said, I accept the parameters for the debate. We will deal with the Bill responsibly but we will not be pushed by the Minister of Labour. We as a Council will make our decisions in proper time.

Clause passed.

Clause 2—'Date of commencement.'

The Hon. K.T. GRIFFIN: When is it intended that this Bill will be brought into operation? Can the Minister indicate whether it will be brought in as a whole or whether certain provisions will be suspended from operation and, if so, what are those provisions and to what date will their operation be suspended?

The Hon. C.J. SUMNER: The current intention is to proclaim the whole Bill to come into effect as soon as practicable. It is anticipated that that would be within the next few weeks.

Clause passed.

Clauses 3 and 4 passed.

Clause 5—'Interpretation.'

The Hon. K.T. GRIFFIN: I move:

Page 2, line 6—Leave out paragraph *(b)*.

We should really use this amendment, minor as it might seem, as the test for whether or not conciliation committees will be retained in the legislation. The amendment seeks to remove from the definition of 'award' the reference to a committee. Section 6 of the Act carries the following definition:

'award' means an award or order of the commission or a committee and includes a variation of such an award . . .

There are subsequent amendments upon which the substantive issue would be more properly argued but, because this is the first reference to a committee, it is reasonable to expand the debate to deal with the whole issue of conciliation committees.

Conciliation committees have been a part of the industrial scene in South Australia for many years, and have been a very important part of the negotiation and award making process in industrial relations in this State. Admittedly, some of those committees have not been particularly effective, although others have. Those committees are established under the supervision of the Industrial Commission, so it is not as though they are outside the system: they are an integral part of it.

What the committees allow is a formalised process of negotiation and not the informal process that the Minister in another place suggested was already in existence, that is, the process of negotiation between representatives of employers and employees. With conciliation committees there is a formal framework within which the negotiations can occur and awards be made. The difficulty, if they are abolished, is that then the parties will have only the formal structure of the Industrial Commission within which to operate.

There will be some informal negotiation, bargaining and, perhaps, even confrontation in the lead-up to the conclusion of award disputes or negotiations before the Industrial Commission, but I suggest to those who have had any experience of conciliation committees that do work effectively that the formal process, which will be the only process for negotiation, will inhibit fair and reasonable discussion rather than encourage it.

One of the main areas where conciliation committees have worked effectively is in the retail industry. The Retail Traders Association, the body representative of employers, is particularly concerned about losing the conciliation committee framework within which its negotiations occur. One of the significant advantages that the employers' side of the retail industry ascribes to the conciliation committee in that industry is that the members of the committee can vary the

award by consent without any intervention by the Industrial Commission.

That has some advantages, because employer and employee representatives on the committee do build up confidence in each other, can get to know each other's good and bad points and discuss things in a full and frank manner behind closed doors. The outcomes from such conciliation committees are really achieved by direct negotiation and not by the Industrial Commission.

I am told that the retail industry operates under the State system, where the major award binds something like 5 000 employers and 30 000 to 40 000 employees. That is a fairly sizeable part of the South Australian work force.

The recent negotiations, which allowed the extension of shop trading hours and amendment of the award to accommodate that, were facilitated through the industry conciliation committee. So, it is in that context that we have concern on this side that there is to be an across the board abolition of conciliation committees rather than an individual assessment of committees, one by one. Of course, there is already power to dissolve conciliation committees where that is appropriate and, perhaps, if there is any deficiency in those powers of the full commission, one could consider widening them.

However, I think that the problem that is likely to arise from the way in which the Government has approached it, is that there will no longer be that equal representation of employers and employees in a conciliatory atmosphere, negotiating on award issues and the ban on the establishment of new committees will undoubtedly prevent the evolutionary process, resulting in some committees gradually being taken out of existence.

The Government's proposal is consistent with the Federal legislation, but I do not think we ought to be blindly following everything that occurs at the Federal level. In many respects the Federal Government is out of touch with the people who actually have to work. In some sense, it lives in isolation from the real problems of ordinary people—both employers and employees. An attempt to establish a very extensive bureaucratic system, as the mega union or super union concept will undoubtedly result in, will mean less power for individual employees, more power for those at the top of these super unions and, I suggest, less contact with the real world.

So, it is a much broader picture in which I make the Liberal Party's observations on conciliation committees. It is a broader picture on which I will make further observations as we deal with the principles that are included in this Bill to move towards some national, coherent framework of registered organisations. It is in that context, therefore, that I move this amendment which, as I said, I regard as a test of the continuation or abolition of conciliation committees.

The Hon. C.J. SUMNER: I accept this amendment as being the substantive debate on the abolition or otherwise of conciliation committees. The reasons for their retention or abolition have been canvassed adequately in the debate to date. I repeat, the Commonwealth Act does not make provision for specialist tribunals having power in areas of operation independent of the commission. The thrust of the Government's Bill is to achieve the same for the South Australian commission.

Conciliation committees inhibit the proper representation of employee and employer associations that are not able to gain membership on the committee. As such, the continuation of conciliation committees will impede the national rationalisation of the union process within the South Australian jurisdiction. The Government opposes the amendment.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. It is important to quote a paragraph from a letter that I received from Peter Hampton, Manager, Industrial Relations, South Australian Employers Federation, as follows:

> The Government's Bill to rescind conciliation committees must be supported, as such a move is not only supported by the majority of industrial relations parties and the President of the Industrial Commission but is also consistent with recent changes to the Federal and Victorian Acts.

The Democrats oppose the amendment.

The Hon. K.T. GRIFFIN: I accept that Mr Hampton, on behalf of the Employers Federation, is of the view that conciliation committees ought to be abolished. The Chamber of Commerce and Industry, on the other hand, says that they ought to be retained. More particularly, the Retail Traders Association—a major representative body of employers in South Australia—is strongly of the view that they ought to be retained because it believes, from experience gained in the operation of the conciliation committees in the retail industry, that they are invaluable.

I note the Attorney-General's response that conciliation committees are not consistent with the Federal scheme, but I do not think that that is a particularly necessary objective. The comment that the continuation of conciliation committees will impede the representation of registered associations of employers and employees shows quite clearly that the push is on to ensure that there is some outside influence on the negotiations between employers and employees in a particular industry and to impose standards which are not necessarily appropriate to the industry represented through the conciliation committee process.

This proposition, along with a number of others, is all part of the push to maintain control at a much higher level than is necessary or desirable in the industrial relations area. If employers and employees in an industry can relate well to each other and can solve their problems together, why does it need so-called peak councils or other bodies to be involved in the negotiating process? It rather suggests that if they want to be involved they are scared that some people will exercise their own rights and freedom and make decisions which suit them but which may not suit people who really have no direct relationship to the industry, and that it may have other repercussions which either employers or employees outside the industry are not able to face up to. I am disappointed that the Hon. Mr Gilfillan will not support my amendment but I indicate that it is a crucial one, on which, if I lose it on the voices, I intend to divide.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Noes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill and Barbara Wiese.

Pair—Aye—The Hon. Bernice Pfitzner. No—The Hon. R.R. Roberts.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. K.T. GRIFFIN: I move:

> Page 3, lines 13 to 17—Leave out paragraph *(k)*.

This amendment relates to the definition of a peak council. This is the first time that a so-called peak council has been included in the Industrial Conciliation and Arbitration Act in this State. According to the definition, it means the United Trades and Labor Council or a prescribed body that

represents employer associations. One suggests that the prescribed bodies may be bodies such as the Chamber of Commerce and Industry or the South Australian Employers Federation, but they are registered associations by virtue of the fact that they satisfy the provisions of the principal Act in any event because they are representative of employers. It will be interesting to know whether the Government has any other concept of organisations that should be prescribed to represent employer associations.

Under the existing Act, the United Trades and Labor Council does not qualify to become involved in the system on an official basis, because it does not qualify to be a registered association; it is not a body which represents employees; it is a body whose members are registered associations of employees; in other words, individual unions.

The introduction of the concept of peak councils, particularly in the context of this amendment, means that the United Trades and Labor Council will have a right to be involved in a number of matters specifically referred to in the legislation, although they will not necessarily be in a position to guarantee compliance with any decisions made in matters in which they happen to be representative. Quite obviously, what will happen is that the United Trades and Labor Council, having a formal position in the industrial process as suggested by this and subsequent amendments, will really be trying to bring its own membership under control; to be actively involved in what is professed to be a move towards super unions—or mega unions—and strengthening the hold on industrial relations by the leadership of organisations representing employees, rather than allowing flexibility for the membership of the organisations to express a point of view, have that point of view heard, and for due weight to be given to it.

It is interesting that the United Trades and Labor Council has published a press release on what is happening in Parliament in relation to this legislation. Of course, the Hon. Mr Gilfillan comes in for a lot of criticism from the UTLC, and it is obvious from the press release that the trade union movement, represented in this State by the United Trades and Labor Council, is looking to develop a system that gives it more power and individual employees less power.

The UTLC says that opponents of the Conciliation and Arbitration Bill in Parliament are really aiming to weaken the trade union reforms under the State system. I suggest that that is a nonsense, that what, in fact, is likely to happen as a result of the passage of this legislation, even in some amended form, is that it will certainly strengthen the power of the top echelons of trade unions but weaken the representation of individual employees. The Liberal Party can see no reason at all for the UTLC, or even so-called peak councils of employer associations, to have any special privilege under this legislation.

The other interesting fact is that, whilst the United Trades and Labor Council is included within the definition of peak council, the Government, by regulation, will determine what is to be a prescribed body. There are no criteria for determining what sort of organisation of employers will become a prescribed body and, whether the Government has in view that the Confederation of Australian Industry, the Business Council of Australia, or any of those national organisations, will be represented.

The Hon. R.I. Lucas: What about the Small Business Association?

The Hon. K.T. GRIFFIN: There is the Australian Small Business Association, and the United Farmers and Stock owners and the Retail Traders Association come to mind. There is a whole range of bodies which individually represent a range of employers within a particular industry but which do not necessarily represent all employers in South Australia. I do not think that we will get to a situation where all employers will want to be represented by one mega employer association, whether it is at the State or at the national level. The rather disturbing aspect with this trend towards the super unions—the Federal unions—is that the small employers will lose their voice and that the major decisions and industrial relations policy will be dictated by the industrial relations club already in existence in Canberra, Sydney and Melbourne. It will be even more so if this legislation passes: the large Canberra, Sydney or Melbourne based employer organisations will have the say and will determine the policy and even the administration decisions affecting industrial relations in South Australia.

There is a place, in my view and the Liberal Party's view, for a mix of Federal unions and State unions—State unions in particular, because they are closer to the workplace; they are closer to the local circumstances and situations of business and the needs of employees. In many respects we do not have the major confrontations which occur interstate between employers and employees in some of the smaller business areas of employment, and I think that is a good thing for South Australia. If we get to the point of the national framework we will lose some of the individuality in South Australia which has been important to employer and employee relationships and to business activity in this State. It is in that context, therefore, that I seek to move the amendment to remove the reference to peak councils.

The Hon. C.J. SUMNER: The Government opposes this amendment. The Bill complements the Commonwealth Act in this definition where the commission must consider whether or not to consult peak councils. However, it is important to note that identifying peak councils within the Act will not prevent the commission from consulting any other bodies. As to who the prescribed body will be that represents employer associations, that will be a matter of consultation with the employer associations once the Bill has passed.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Noes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill and Barbara Wiese.

Pair—Aye—The Hon. Bernice Pfitzner. No—The Hon. R.R. Roberts.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 6—'Jurisdiction of the court.'

The Hon. K.T. GRIFFIN: I move:

Page 4, lines 12 and 13—Leave out 'under this Act, an award, industrial agreement or a contract of employment' and substitute 'under this Act or a contract that is governed by an award or industrial agreement'.

The following four amendments on file relate to section 15 of the principal Act which identifies the jurisdiction of the Industrial Court. One area of jurisdiction is presently to hear and determine a claim for a sum due to an employee or former employee from an employer or former employer pursuant to this Act or pursuant to a contract that is governed by an award or industrial agreement, or a claim for a sum due to an employer or former employer from an employee or former employee pursuant to this Act or pursuant to a contract that is governed by an award or industrial agreement.

The jurisdiction of the Industrial Court is in relation to a claim by a person under a contract that is governed by an award or industrial agreement. The Bill seeks to broaden that jurisdiction to apply not only to those employers, employees, former employers or former employees under an award or industrial agreement, but also to extend it to a claim under a contract of employment regardless of whether or not an award or industrial agreement covers the situation. That is a very significant extension of the jurisdiction of the court.

There is a lot of concern about that extension because it means that executive salary packages will be subject to the jurisdiction of the Industrial Court. Generally speaking, executives make their own contracts with independent advice and they expect that any determination of a dispute will be made by the ordinary courts in South Australia, but of course that procedure will change.

It is interesting to note that the Government is seeking, by way of its amendments to section 31 relating to unfair dismissal, to narrow the jurisdiction of the Industrial Court. That narrowing will occur in this way. Section 31 provides:

Where an employer dismisses an employee, the employee may, within 21 days after the dismissal takes effect, apply to the commission for relief under this section.

That position extends to all unfair dismissals. However, under the Government's amendment it is proposed that an employee will not be entitled to make an application for relief under section 31 unless the employee's remuneration is governed by an award or industrial agreement under this Act or the Commonwealth Act or unless the employee's annual remuneration immediately before the date of dismissal was less than $65 000, and provisions for indexation are included.

So, there is a limitation on the jurisidiction of the Industrial Commission to exclude, apart from those employees whose remuneration is less than $65 000, persons who have a dispute as a result of dismissal under a contract of employment not covered by an award or industrial agreement. It is acknowledged that, at present, there is an inconsistency in the legislation, but the Liberal Party's preference is to leave the Act as it is rather than to meddle with it in the way in which the Government suggests. Of course, if the Government's proposal in relation to this clause becomes part of the Bill, and if my amendment is not carried, we will have to look more closely at the jurisdiction of the commission in relation to wrongful dismissal. I therefore move this amendment which is designed to maintained the *status quo* in relation to matters of under-payment.

The Hon. C.J. SUMNER: As has been said, this amendment seeks to limit claims under section 15 (1) *(d)* to award areas only. That is, the amendment opposes the Bill's expansion of jurisdiction to include award free employees. The vast majority of claims under section 15 (1) *(d)* are by low income earners who are more likely to be ignorant of their entitlements. It is expected that senior managers who are award free will not use this section of the Act; rather they will use the civil jurisdiction for breach of contract. There seems to be no real basis for precluding employees, particularly low income earners, from the benefits of the section 15 (1) *(d)* procedure, even if they are not covered by an award.

The Hon. K.T. GRIFFIN: I want to make a couple of other comments. First, neither of these provisions is found in the Federal Act as far as I am aware. The provisions of the Federal Act are limited to claims arising in relation to awards and industrial agreements. Although the Government says that this is designed to give award-free workers access to a low cost and expeditious avenue for recovering unpaid wages—and of course there is no guarantee that that will be the case—the objective, as I have already indicated, is inconsistent with other amendments proposed by the Government to matters such as unfair dismissals, and even in the ability to apply to vary awards. There is an inconsistency in the Government's argument. Of course, it is not one of those matters that has any relevance to the Federal Act.

Amendment negatived.

The Hon. K.T. GRIFFIN: In the light of having lost that amendment, which I regarded as important but on which I chose not to divide if I lost it on the voices, I will not move amendments to lines 15 and 16, 21 and 22, and 25 and 26, I now move:

Page 4, lines 35 to 37—Leave out all words in these lines after 'payable' in line 35.

Jurisdiction is given to the Industrial Court under the amendments that we have just been debating to extend the jurisdiction to unpaid contributions for superannuation. It is interesting to note that a claim for underpayment of wages, for example, must be made within six years after the sum claimed became payable, but there is no limitation on the time for making a claim in relation to the non-payment of superannuation contributions.

I would have thought that in the ordinary course of things the two ought to be treated similarly; that if it is good enough to place a limitation of six years on the claim for underpayment of wages then it is equally good enough to provide a similar time limitation. The six years time limit in relation to underpayment of wages in already in the Act, so there is no argument about that, and it is consistent with the general law—that, where there is a monetary claim under contract, then six years is the statute of limitations period. But it seems quite unrealistic to allow an unlimited time within which to institute proceedings for non-payment of superannuation contributions.

I suppose one could have a situation where, after 15 or 20 years, there might be a claim based on some understanding of what should or should not have been done 15 or 20 years ago. It makes a nonsense of the rights of an employee to go back that far. For one thing, there will be difficulty in proof. More particularly, it will be a licence for sloppiness on the part of inspectors and also employees and registered associations that become involved in the superannuation process. It is desirable not to have those sorts of unlimited potential liabilities where evidence will be difficult to gather, on both sides, where memories will be not so much defective but will cease to recollect accurately the events of many years ago.

As I said, the tendency not to bother to check these matters will be encouraged by the lack of a time limit on it. No-one has yet explained to me why there should be the difference, anyway. Putting that to one side, it is important to have similar time limits. I certainly do not condone the non-payment of contributions that are lawfully required, but it must surely be a matter of proper surveillance to ensure that t is done within, say, a period of six years rather than leaving it unchecked.

The Hon. C.J. SUMNER: The Government opposes this amendment. Claims for non-payment of superannuation are often not realised by the claimant until employment has ceased; therefore, a time limit could work an injustice on an employee.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. We see a difference between the non-payment of wages and the non-payment of superannuation. An anticipating recipient of superannuation may have very substantial expectations in their life provision. As to the non-payment of wages, that loss has been borne over the period

of the loss, whereas the loss of superannuation affects a time ahead, for which, unwittingly, superannuation has not been provided for. I believe there is justification for varying the limitation between the non-payment of wages and the non-payment of superannuation. I also believe that, through this Bill and possibly with the help of some amendments that I have on file, there will be a very thorough procedure of superannuation payment and supervision that will virtually eliminate the risk of superannuation payments not being made.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 5, lines 14 to 16—Leave out all words in these lines after 'fund' in line 14 and substitute:

(i) the amount of the award cannot exceed the amount that should have been paid to the fund plus interest at a rate (not exceeding the prime bank rate), and as from a date, determined by the court;

and

(ii) the court may (subject to any relevant law of the Commonwealth) direct that the amount awarded be paid to the claimant or to a superannuation fund on the claimant's behalf;.

This relates to the superannuation question but is directed towards identifying the compensation that might be awarded by the court in the event of non-payment of superannuation fund contributions or payment of less than that which the law required. At the moment, the Bill provides that:

Where the claim is for compensation for non-payment of contributions that should have been (but were not) made to a superannuation fund the court may (subject to any relevant law of the Commonwealth) direct that the amount awarded be paid to the claimant or to a superannuation fund on the claimant's behalf.

That in itself raises some interesting questions about tax liability when payment is made direct to the claimant before retirement. That is a matter that someone else will have to worry about.

I seek to try to quantify the compensation as the amount of the award not exceeding the amount that should have been paid to the fund, plus interest at a rate not exceeding the prime bank rate and as from a date determined by the court, because the whole issue of compensation is difficult to resolve. In each case I suspect there will be different calculations and, of course, different arguments. No principles are identified in the Bill, and it means that it is then very much up to the court to determine what compensation actually means.

At least by making it the amount of the contribution plus interest it will be quantified, and it will be fair to both employer and employee. I know that there may be a suspicion that the amounts not having been received, the appreciation may not be as significant as it may have been if the fund contributions had been paid and invested in capital growth investments. But, on the other hand, it is also conceivable that, where contributions should have been made but were not when invested, the package may be very much less than it would have been at the end of the day if one took into account only the contributions plus interest.

We have many examples at the moment where superannuation fund assets are depleted in a capital context; the South Australian Superannuation Fund is one because it has some pretty poor property investments. If a fund of that sort was the subject of inquiry in accordance with this jurisdiction, the decision from that would result in the employer getting very much less than the contributions which should have been paid, but were not, plus interest. So, it cuts both ways. To take the element of uncertainty out of it for both employers and employees, as the reference to the amount of contribution which should have been paid plus interest is a fair and equitable way of resolving the uncertainty.

The Hon. C.J. SUMNER: The Government opposes the amendment, which seeks to place a limit on the amount of compensation that can be paid for non-payment of superannuation contributions. If agreed, the limit would place no deterrent on employers for making non or late payment.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: In relation to paragraph *(g)*, and I know this is in the principal Act at the present time, my recollection is that the Liberal Party opposed it at the time because we were of the view that it was an unreasonable intervention of an inspector, an executive officer, into the judicial process. My view is that that is still an objectionable provision, but we are not moving to delete it because the matter has been resolved only in the past year or two by the Parliament, and we did not believe it was appropriate to revive the debate without any expectation that we would be successful. It is an unreasonable imposition of an executive officer into the judicial and quasi-judicial process and it does place unreasonable and improper pressure on parties to proceedings.

Clause passed.

Clause 7—'Commissioners.'

The Hon. K.T. GRIFFIN: I move:

Page 6, lines 4 to 7—Leave out subsection (2) and substitute:

(2) A commissioner may be appointed on an acting basis and, in that event, the appointment will be for a term (not exceeding six months) specified in the instrument of appointment.

(2a) Subject to this section, a commissioner is, unless lawfully removed, entitled to hold office until the age or 65 years, and will cease to hold office on attaining that age.

(2b) A commissioner who has been appointed on an acting basis ceases to hold office on the expiration of the term of appointment.

This clause deals with commissioners and introduces into the law, if passed, a most undesirable development. At present, under section 23 the Governor may appoint one or more commissioners. New subsection (2) provides:

A commissioner is, unless lawfully removed from office, entitled to hold office until the commissioner reaches the age of 65 years . . .

Subject to subsection (3) he ceases to hold office on reaching that age. That appointment means that a commissioner, once appointed, is independent of any executive pressure in respect of reappointment. At the age of 65 years a commissioner retires, subject to completing unfinished matters. Unless there is misconduct, a commissioner will not be removed from office.

The Bill seeks to provide that commissioners be appointed not only until they reach 65 but also for a lesser term, and that brings into prospect the appointment of a person as a commissioner for, say, one, two, three or five years and, if it is for a term, a commissioner at the end of his term will be looking over his or her shoulder to ascertain whether or not that appointment will be renewed. That means that the person in that position may be pressured by virtue of the necessity for reappointment to tailor his or her decisions to suit what he or she perceives to be the best course for being reappointed.

There has been much debate about the appointment of judicial or quasi-judicial officers for anything less than life or until a particular retirement age because, the moment the appointment is for a term, it reduces the independence of that person and the potential for undue influence becomes much stronger. In addition, this Bill seeks to enable the Governor to appoint a commissioner on a part-time basis and to vary terms of appointment so that a commissioner previously holding office on a full-time basis continues in office on a part-time basis, or a commissioner previously

holding office on a part-time basis continues in office on a full-time basis, but such a variation in the terms of a commissioner's appointment cannot be made without the commissioner's consent. That means that a person appointed on a part-time basis will not be wholly committed to the responsibilities of his or her office as a commissioner.

While it may be convenient for the Government of the day to be able to manage the affairs of the Industrial Commission by this form of appointment, in my view, it compromises the independence of the commissioner. When one couples that with a subsequent provision of the Bill that a commissioner must not, without the consent of the Minister, engage in remunerative work outside the duties of his or her office, it brings to mind a most undesirable situation, where you can have a person as a part-time commissioner sitting in the commission perhaps two or three days a week and the other two days a week going about his or her business, either as an employee of an employer association or of an employee association.

He or she may be a lawyer sitting in the commission for three days a week, practising on the remaining two days of the week and even appearing in the commission. That is a bizarre proposition, and it may be that, even though there is some safeguard in that the Minister must give consent for that situation to arise, there is at least the potential for abuse. I should have thought that, in an attempt to ensure that the commission is as independent as possible of the parties and of the Executive arm of the Government of the day, there ought to be a focus upon permanent appointment, full-time appointment and no remunerative work outside the duties of his or her office.

I propose, therefore, that we make some fairly significant changes to this part of clause 7. In such courts as the Supreme Court and the District Court there is a provision for acting appointments, and even in relation to the Industrial Court there is a provision for appointment of acting deputy presidents for periods of up to six months. Whilst in the Supreme Court the Chief Justice has criticised acting appointments, where a barrister might be appointed to be an acting judge for six or 12 months and then go back to the bar to practise, nevertheless it is an appropriate way of dealing with problems of workload and other difficulties, perhaps for short-term appointments where a commissioner, deputy president or judge might be on sabbatical or long service leave.

Because there is already a precedent in relation to the deputy presidents in the Bill, I believe it is appropriate to provide for the appointment of acting commissioners for a term not exceeding six months, but otherwise for the permanent appointment of commissioners, so that independence is not compromised.

I know that there is a provision for commissioners to be appointed from employer and employee groups but, once they become commissioners, they should put to one side their preference—not their experience—and they ought to accept the responsibilities of office as arbiters of disputes within the industrial arena. As far as I am aware, most, if not all, of the commissioners adopt that attitude. However, as I said, the difficulty is that, if there are appointments for terms of, say, three, four or five years, it raises the potential for that sort of compromise.

I have two amendments on file related to this initial matter of a specified term. The amendment with which I desire to proceed relates to clause 7, page 6, lines 4 to 7, to leave out subsection (2) and substitute new subsections (2a) and (2b), and that, I suggest, accommodates the concern for some short-term relief, but will not, in the longer term, compromise either individual commissioners or the operation of the commission in so far as its independence is concerned.

The Hon. C.J. SUMNER: The Government opposes the amendment. The Bill's provisions as introduced are a direct reflection of the provisions in the Commonwealth Act and are seen to be of particular advantage in assisting with peaks in the workload of the commission.

The Hon. J.C. BURDETT: I support the amendment. The Australian Bar Association statement of March 1991, in relation to this very subject of the independence of the judiciary, states (page 3, paragraph 3):

> In the first place, judges must be appointed to office until a specified retirement age appropriate for the end of a career. As a corollary, they must be protected against removal except on the address of both Houses of Parliament (a unicameral system would obviously require a slightly different provision) seeking such removal on the grounds of proved misbehaviour or incapacity. The reason is obvious if independence is to be protected. The Constitution (section 72) enshrines such a provision. The Constitution, however, does not protect judges of State courts. Nor does it protect—

and this is what is appropriate here, of course—

> the members of bodies (whether Commonwealth or State) which, although having powers of adjudication over disputes between parties before them, are not courts. Their protection, to the extent that they have any at all, comes from legislation or from the common law. That given by both combined may not amount to much.

There then follows a discussion of the well-known Staples case. This Bill seeks to take away the protection that is presently provided in the current Act. Of course, the Hon. Mr Griffin's amendment seeks to preserve that position and to take away this whittling down in two respects. The first respect—

The Hon. C.J. Sumner: How is it much better to have an acting judge?

The Hon. J.C. BURDETT: I was just coming to that. The Bill whittles down the protection in two respects. The first relates to enabling the appointment of a commissioner for a shorter period—until he attains the age of 65 years—and the other relates to the appointment of acting judges. The particular matter that I address relates to allowing for the appointment of a commissioner for a lesser period than until he attains the age of 65 years. The commissioner—

The Hon. C.J. Sumner: That is what your amendment does, anyhow. It is making an acting commissioner.

The Hon. J.C. BURDETT: No, the amendment—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. Sumner: Yes, that is not until retirement.

The Hon. J.C. BURDETT: All right, but the amendment means that the commissioner must be appointed until retirement—the age of 65 years.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: Just a moment. In order to cover the possibilities and exigencies that may arise, the Hon. Mr Griffin has proposed the provision of acting judges in certain circumstances. However, a commissioner (and this is the main thing and what his amendment seeks to remove) must be appointed under the present law and, under the Hon. Mr Griffin's amendment, until he attains the age of 65 years. The first of these amendments which is under discussion presently and which is the main one that I wish to address is to leave out 'or completes some lesser term specified in the instrument of appointment'.

The system of the Industrial Commission has worked well under the present provisions. It is essential that it continues to work well, and it must be, and must be seen to be (which is almost as important), independent. It will not be seen to be independent if commissioners can be appointed for periods other than until they attain the age of 65 years, with the necessary provision in certain circum-

stances for which the Hon. Mr Griffin's amendments allow, in regard to acting judges to overcome particular exigencies as they arise. The first amendment, and what I see as the main one in this context, is to leave the law as it is at present and leave out the words, 'or complete some lesser term specified in the instrument of appointment'.

The Hon. I. GILFILLAN: I am satisfied with the conditions in the Bill. I realise that it may not be perfect in the implementation of a commission which will be totally untrammelled from the time of appointment until the time of retirement, but I am also conscious that there are times when there is a considerable increase in the workload of the commission. There is enormous frustration when matters cannot be heard, and it is an unnecessary expense to burden the system with the required number of commissioners to deal with peak load right through. The analogy is with electrical generation. It is expensive to maintain peak capacity right through, although it may only be used for short periods.

The other relevant matter relates to appointments for a limited term or even part time. It may be reasonable to reflect on the Hon. Trevor Griffin himself, although I do so without any malevolence. The fact that he works as a lawyer does not discredit him from making impartial judgments on matters relating to the law in this place. In fact, because of that, he is referred to with more respect than if he did not have some experience. There is an expectation that responsible Governments of any major Party will make appointments in consultation with the commission for a specific period, and that we can expect those people who are appointed to behave with integrity. I do not see that the amendment should be supported.

The Hon. K.T. GRIFFIN: With respect to my position, it is not relevant to the determination of this issue. We are looking at the independence of a person who exercises a *quasi*-judicial responsibility.

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I do not have to make a decision on whether this person or that person is right with consequences which flow in relation to that person's activities. I do not see any similarity between the two situations. I am not insensitive to the need for the commission to be able to manage its workload. The real difficulty is that there is no time limit on the lesser term. This leaves open the prospect of a Government appointing someone for four or five years.

In that period, on a full-time basis, generally speaking, they will be committed to that work, and after that period they will be looking for reappointment. It is the potential for altering one's mind, having in view the question of reappointment, that raises the issue of compromise. Not only must there be impartiality but also it must be seen to be impartial. Not only must there not be a conflict, but also there must be seen not to be a conflict.

A person who requires the good will of the Government of the day to be reappointed to an office upon which he or she may depend for living is an important issue which must be taken into consideration. If there were some time limit, I would be much more comfortable, but it must not be a long time limit. In the Supreme Court, for example, one cannot be an acting judge for more than 12 months. Under the principal Act one cannot be appointed as an Acting Deputy President for more than six months. That gives some flexibility. It also means that someone who is appointed for such a short term does not have to depend on reappointment for his or her living. That important distinction must be kept in view when making a decision on this matter. I am concerned about the potential for conflict and for compromise to arise in relation to appointments under the provision of this Bill.

The Hon. J.F. STEFANI: I will not delay the debate. I support the remarks made by the Hon. Mr Griffin. Clearly the amendment specifies a term of six months, and there is no expectation after those six months that the person will continue. It provides flexibility to the commission to cater for the workload that may occur, and at the end of six months the person appointed returns to his or her previous occupation.

The Hon. I. GILFILLAN: I recognise that this amendment came in very late in the day and I understand that the Opposition was not in a position to move it in the other place. I am persuaded by part of the Hon. Mr Griffin's argument. On reflection, it appears to me that there are hazards in this open-ended capacity for time to appoint. I am uneasy about it. Therefore, it is probably appropriate to indicate support from the notation and from what I have picked up from listening to the amendment being described.

I have no problem with a commissioner being appointed on a part-time basis, as I attempted to explain earlier, and I do not think that I would have any particular problem with the temporary basis appointment of not more than six months with a right of renewal. I am also uneasy about a full-time appointment being anything other than to the age of 65 years. I have a vague recollection of Justice Staples getting what has been regarded by the Law Society as a fairly rough deal in terms of his virtual cancelling out by some manoeuvre of the Federal Government. I do not remember the Federal Opposition's making much complaint about it at the time. If they did, I apologise, but it seemed to me that very few raised their voices.

The Hon. C.J. Sumner: The President wouldn't give him any work.

The Hon. I. GILFILLAN: There seemed to be very little sympathy for an appointment to have been maintained until the appropriate time. However, I do not intend to be diverted by that. I think that, if the Hon. Mr Griffin could see fit to move an amendment which still allowed me to support the part-time basis but, other than that, to sympathise with his other matters of concern, I would indicate my support.

The Hon. K.T. GRIFFIN: I take the point that the Hon. Mr Gilfillan is making about the lateness of these amendments coming on file, but I think that has occurred with all of us. It is only because this is the last sitting day (or is meant to be) that we are in a position of not having an opportunity to further consider the amendments at what would normally be a more responsible pace.

I think it is reasonable to make the point (I have indicated privately to the Hon. Mr Gilfillan) that, even with his amendments which came on late yesterday. I make no criticism of that: I will endeavour to assess the merits of his amendments on the run, in a sense, and I appreciate the fact that he is prepared to do that here.

The next amendment with which I will be dealing is paragraph *(b)*, involving part-time appointments. Although I wrapped it up in my initial comments, because they all relate to the same issue, I suggest that they are different matters. My amendment does not prevent the reappointment of an acting commissioner but it is a conscious decision, and it is for a short term. Therefore, I would appreciate the support of the Hon. Mr Gilfillan on this matter, and at a subsequent stage we can debate the question of the part-time commissioner and other remuneration.

The Hon. I. GILFILLAN: I indicate support for the Hon. Mr Griffin's amendment.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Lines 8 to 24—Leave out paragraph *(b)*.

I have already been through the reasons for excluding part-time commissioners. I think it is an undesirable development which can leave the whole commission under a cloud, because a commissioner might well be receiving other remuneration if the Minister gives his or her consent to that occurring. I would not necessarily see my next amendment as being dependent on the outcome of the vote on the deletion of paragraph *(d)*, because I believe that the issue of whether or not a person is engaged in remunerative work outside the duties of his or her office is a separate issue.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 6, line 29—Leave out ', without the consent of the Minister,'.

This relates to the question of remunerative work outside the duties of the office of commissioner. I do believe that it is a potentially dangerous provision where a Minister can grant consent to a commissioner to engage in remunerative work outside the duties of his or her office. My amendment seeks to remove the power of the Minister to consent and to state quite clearly that a commissioner must not engage in remunerative work outside the duties of his or her office. I suggest that, if the Government says that that will create difficulties in getting part-time commissioners, the principle is more important than that potential difficulty. In the Supreme Court and the District Court, the Attorney-General introduced legislation to allow for auxiliary appointments of judicial officers, and that system seems to have worked well and been fairly flexible. In effect, it provides for retired judges and magistrates to be given the task of acting to relieve the backlog of work in the courts.

I would suggest that, whilst the appointment of a part-time commissioner may not necessarily be akin to that, it is quite possible that persons who have retired earlier—or later, as the case may be—could be available for part-time work as commissioners, and it is in those circumstances that an appointment should be considered. However, a person who might be actively working as an employee's or employer's official within an industry, as a lawyer, or whatever, should in no circumstances or at any stage be considered for appointment as a commissioner on a part-time basis if that person is not prepared to withdraw from the extra remunerative work in which he or she may be engaged.

The very fact of someone engaging in remunerative work at the same time as being a part-time commissioner will immediately compromise not only the perception of independence but certainly also the actual independence of that commissioner. I think it is important to remove both conflicts of interest and potential conflicts of interest, and no outside remunerative work, even for a part-time commissioner, would satisfy that position.

The Hon. I. GILFILLAN: I indicate my opposition to this amendment. I acknowledge that the shadow Attorney is actually arguing a point that has certainly deserved attention, but if it is an appointment for up to six months (or may be for a period less than that), it will restrict dramatically the people who would be available for that if they had to terminate completely what they had been doing previously and what they intended to do after they had finished that time. Not only that, it would be very hard to police people who were doing consultancy work. Taken on balance, I do not feel there is a guarantee that the amendment will achieve a worthwhile result but that it would severely restrict the range and quality of people available for the work.

The Hon. K.T. GRIFFIN: I do regard it as a very important principle. What the Hon. Mr Gilfillan has said really demonstrates the need to ensure that there is no outside work, because the very fact of being a consultant at the same time as being a part-time commissioner raises very important questions of independence and dedication to the task.

The Hon. I. Gilfillan: The Minister can say, 'You can't do it.'

The Hon. K.T. GRIFFIN: You are leaving it to the Executive arm of Government to make that decision. I do not think that any Minister ought to be in that position or allowed to be in that position.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.J. Elliott, J.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Pairs—Ayes—The Hons L.H. Davis and Bernice Pfitzner. Noes—The Hons R.R. Roberts and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. K.T. GRIFFIN: I move:

Page 6, lines 41—Leave out ', except on leave of absence,' and substitute ', except for the purposes of leave,'.

I hope that this amendment is acceptable to the Government. Proposed subsection (13) provides:

The Governor may remove a commissioner from office if—

(c) The commissioner is absent from duty, except on leave of absence for 14 consecutive days or for 28 days in any 12 months.

What is 'leave of absence'? This subsection suggests who should be the person to grant leave of absence. I understand that essentially it is related to questions of leave entitlement. Rather than questioning what is 'leave of absence' and who grants it, it seems to me to be more appropriate merely to say 'except for the purposes of leave'.

The Hon. C.J. SUMNER: No objection.

Amendment carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10—'Jurisdiction of the commission.'

The Hon. I. GILFILLAN: I move:

Page 8, line 3—Leave out paragraph *(a)*.

This amendment relates to demarcation. Section 25 (1) provides:

In addition to and not in derogation from the jurisdiction elsewhere conferred on the commission by this Act the commission shall, subject to this Act, have jurisdiction to hear and determine—

(a) any matter or thing arising from or relating to any industrial matter;

and

(b) any question as to the rights of employees in a specified occupation or calling or in specified occupations or callings to do certain work or a certain kind of work to the exclusion of all other employees or to the exclusion of employees in all or some specified occupations or callings,

but except as provided in this Act the commission shall not have jurisdiction over any matter or thing that is within the jurisdiction of a committee.

The Bill attempts to strike out paragraph *(b)*. The Bill contains a further clause dealing with demarcation. I foreshadow my intention to remove the second provision in that clause relating to demarcations being dominated by the pattern to impose a Federal overview, for a so-called coherent national framework of employee associations. I will argue that matter in due course. However, this amendment seeks to retain the current wording in the Act and not to

remove it as the Government attempts to do by way of this Bill.

The Hon. C.J. SUMNER: No objection.

The Hon. K.T. GRIFFIN: I do not have any difficulty with this amendment at this stage. The issue of the power of the commission in relation to demarcation will be dealt with more extensively later.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 8, lines 11 to 21—Leave out subsection (4) and substitute:

(4) In dealing with a demarcation dispute, the commission must consider whether it should consult with:

(a) the Chamber of Commerce and Industry, South Australia Incorporated;

(b) the South Australian Employers' Federation Incorporated;

(c) the United Trades and Labor Council;

or

(d) any relevant registered association of employers or employees, and may consult with any such organisation.

This is the first major provision that refers to the objective of achieving a coherent national framework of employee associations and to any awards or decisions of the Commonwealth commission directed at achieving that objective, and must give effect to the principles on which those awards or decisions are based so far as may be appropriate in the circumstances of the particular case.

As the Hon. Mr Gilfillan has indicated, this relates to section 25, which deals with the jurisdiction of the commission. The question of demarcation disputes is an important area of the jurisdiction of the commission. What this suggests is that the State Industrial Commission will be governed by matters determined outside the commission, even outside South Australia. In a demarcation dispute it seems to me that one of the consequences of proposed subsection (4) is that, if there is a Federal organisation, that is, a union, which is operating in South Australia and which comes into conflict with a South Australian union, in determining the demarcation dispute the State Industrial Commission will have to give greater weight to the Federal organisation than to the State organisation. It militates against the small union; it militates against the enterprise association. In a sense, it is coercive of organisations to become bigger and to ensure that the large Federal or national organisation will take over. Incidentally, it also refers to peak councils which is an argument that, in terms of definition, I have not been successful upon.

My amendment picks up the first part of proposed subsection (4) but eliminates the second part. Before we make a final decision on this, I want the Attorney-General to try to give some definition to a coherent national framework of employee associations and to any awards or decisions of the Commonwealth commission directed at achieving that objective, and I would like some definition of principles on which the awards or decisions are based.

I also want the Attorney-General to indicate how the State commission is to make an assessment of the objective and whether or not an award or decision of the Commonwealth commission is directed at achieving that objective. There are some important questions here that still need to be answered.

The Hon. C.J. SUMNER: I cannot give any definition beyond that which is in the legislation.

The Hon. K.T. Griffin: There is no definition there.

The Hon. C.J. SUMNER: There is a coherent national framework of employee organisations.

The Hon. J.F. Stefani: What's that supposed to mean?

The Hon. C.J. SUMNER: I would have thought it was fairly obvious to anyone who bothered to think about it. It is to take into account or have regard to any awards or decisions of the Commonwealth commission directed at achieving that objective. Within the basic framework of the legislation, which was outlined in the second reading explanation and in my reply, and with the decisions taken at the Federal level, the decisions and statements made by the ACTU, I would have thought it was not a particularly difficult thing to work out what is a coherent national framework of employee associations. It is employee associations that are fewer in number, which cover broader areas than they cover at present and are designed to reduce demarcation disputes. They are also designed to get the effect of micro-decisions, that is, decisions that are taken in individual unions, to reflect an agreed macro-national economic policy, as I said in my reply. I do not have any particular difficulty with the formulation in this Bill and I am sorry if members opposite do have.

The Hon. K.T. GRIFFIN: I think that there are some difficulties of definition but one has to determine what is the national framework. How is it coherent? What principles are to be given weight? Who determines the principles? In his second reading contribution, the Hon. Mr Gilfillan said that he had a concern about the national coherent scheme and what it might mean. He expressed some concern that it might be premature and have a lot of unforeseen consequences.

The Hon. R.I. Lucas: Who was that?

The Hon. K.T. GRIFFIN: The Hon. Mr Gilfillan. He has the same concerns that the Liberal Party has about the way in which this is going to be undertaken and implemented and actually what it means. As I interpret it, it is going to be determined at the Federal level, partly by the Federal Government but more particularly by the Commonwealth commission. I must say that I am surprised that the Attorney-General supports it, because only a few days ago in relation to freedom of information he expressed a very strong view that courts ought not to be legislating, that it is Parliament or the Executive arm of Government that ought to make decisions in that instance about public interest and we should not give courts the power to legislate, in effect.

What is happening here is that it is the Federal commission, and then the State commission, that will be legislating because it will be defining what the principles are, what the coherent national framework might be and it will develop those concepts as a non-accountable, unelected body. It will be playing with all the cards on the table, moving them around to achieve something that has not been clearly expressed, either in this legislation or in Federal legislation.

The other interesting point is that when the Attorney-General was responding last night he said that this is an initiative of Labor Governments around Australia, and well it might be because it seeks to develop a super union to the detriment of the smaller union. There may well have to be some rationalisation, but the question is whether that rationalisation will provide equity and responsible representation and take account of the consequences in States like South Australia.

The Hon. T.G. Roberts: Could you guarantee that now with the current legislation?

The Hon. K.T. GRIFFIN: You can never guarantee that. Only last night the Hon. Mr Crothers said that South Australia has considerable advantages over other States because of its lack of industrial disputation. If the decisions about whether or not there will be a strike and what confrontation will occur is controlled from outside South Australia, people will take no cognisance of local conditions either in respect of employees or employers.

I have always had a concern about decisions affecting South Australia, in matters where something special may be required, being taken in a totally different environment, in a totally different background, by those who might be at the peak of a particular organisation in the more populous States or even in Canberra. I would encourage the Hon. Mr Gilfillan to at least give serious consideration to this issue and hopefully support the amendment, which I move to give some protection to South Australians.

The Hon. I. GILFILLAN: I move:

Page 8, lines 15 to 21—Leave out all words in these lines.

In interpreting the amendments on file for the Hon. Trevor Griffin, I assumed that paragraph *(b)*, which I find offensive, was a separate amendment and would be dealt with separately, and I find now that I am wrong. In fact, the Hon. Trevor Griffin has slightly complicated my amendment. I take exception to paragraph *(b)* because it is an emphatic instruction in a demarcation dispute to be virtually dominated by this Federal superstructure. It is appropriate that the commission take account of all factors that are involved in their proper relativity. I consider it to be an intrusion and an impertinence for this clause to be imposed on us in demarcation disputes. In that area I feel I am in sympathy with the opinion of the Hon. Trevor Griffin and probably others who have concern for the industrial scene in South Australia.

I do not have the same concern as the Hon. Trevor Griffin with paragraph *(a)*. I do not believe the commission is locked into any restrictive position by paragraph *(a)*. The suggestion that it 'must consider' is really playing with words. Obviously, it will consider consulting appropriate peak councils, other groups and bodies: it will not exclusively consult whatever happens to be described as a peak council. My amendment puts this issue of demarcation in its proper perspective where the State priority can hold strong influence without being dictated to by paragraph *(b)*.

The Hon. K.T. GRIFFIN: In essence, the Hon. Mr Gilfillan and I are of one mind and, if my amendment is not carried, I will be supporting his amendment because it essentially achieves the same as what I seek to achieve.

The Hon. R.I. LUCAS: I am pleased to hear the statements from the Hon. Mr Gilfillan because, in my second reading contribution, one of the two matters I spent time on related to what the coherent national framework was to be, particularly as to its effect on higher education union coverage in particular. In that regard I refer to university staff associations and the intention of the Federated Clerks Union and the PSA to gain greater coverage in higher education institutions. Are the Attorney or his advisers in a position to provide information to the Commonwealth on the outcome of the Industrial Commission's hearing on 10 April this week? I am advised that there were to have been significant findings on 10 April about this question of the coherent national framework and the question of significant principal union coverage.

The Hon. C.J. SUMNER: We do not have any information on that matter. If it becomes available we could advise the honourable member of it. I will ask the Minister of Labour to do that.

The Hon. R.I. LUCAS: I thank the Attorney for that and I will not press it any further. However, given that we are likely to be debating the Bill for some time, and as this concept is throughout the Bill and will be debated through to the later clauses, could the Minister's advisers make inquiries to see whether information can be provided during the Committtee stage this afternoon?

The Hon. C.J. SUMNER: We will attempt to do that.

The Hon. Mr Gilfillan's amendment carried; the Hon. Mr Griffin's amendment negatived; clause as amended passed.

Clauses 11 to 13 passed.

Clause 14—'Further powers of the commission.'

The Hon. K.T. GRIFFIN: I move:

Page 9—
Line 19—After 'amended' insert '*(a)*'.
After line 23—Insert:
'and
(b) by inserting after subsection (8) the following subsections:

(9) Without limiting the powers of the commission in relation to demarcation disputes, the commission may, for the purpose of preventing or settling a demarcation dispute, make one or more of the following orders:

(a) an order that an employee association will have the right, to the exclusion of another association or associations, to represent under this Act the industrial interest of a particular class or group of employees who are eligible for membership of the association;

(b) an order that an employee association that does not have the right to represent under this Act the industrial interests of a particular class or group of employees will have that right;

(c) an order that an employee association will not have the right to represent under this Act the industrial interests of a particular class or group of employees who are eligible for membership of the association.

(10) An order under subsection (9) may be of general application or expressed to be subject to specified conditions or limitations.

(11) The commission may order that the rules of an employee association be altered to reflect an order under subsection (9) from a day fixed by the commission (and the commission may make the required alteration by notation in its registers).

We have just dealt with an amendment to section 25 of the principal Act, which deals with the jurisdiction of the commission. One of the matters that the Liberal Opposition and the Australian Democrats have been able to retain in the principal Act is a provision relating to the rights of employees, which is related to demarcation. However, section 29 of the principal Act deals with further powers of the commission, and what clause 14 does is to make an amendment to vary paragraph *(a)* of subsection (1), but does not take further what I believe needs to be addressed, that is, some wider powers in relation to demarcation disputes.

Section 118 of the Commonwealth Act provides specific powers for the Federal commission in relation to demarcation disputes. Those powers allow it to make an order that an employee association will have the right, to the exclusion of another association or associations, to represent the industrial interests of a particular class or group of employees eligible for membership of the association; an order that an employee association does not have the right to represent the industrial interests of a particular class or group of employees; and an order that an employee association will not have the right to represent the industrial interests of a particular class or group of employees who are eligible for membership of the association.

As I understand it, they are not specific powers of the State Industrial Commission, and I have a very strong view that we ought to ensure that those powers enable the State commission to have greater power over demarcation disputes and actually to be in a position of exercising the power if it so wishes. It still has a discretion but, if we put beyond doubt the power that it has, it is in the interests of

reducing some of the ridiculous demarcation disputes that occur.

It is for that reason that I move this amendment, not for the sake of being consistent with the Commonwealth Act but because this is one area where the Commonwealth legislation does provide some clarity, which would be a useful addition to or clarification of the powers of the State commission.

The Hon. C.J. SUMNER: The Government opposes this amendment. This is a provision similar to section 118 of the Federal Industrial Relations Act. This provision was not picked up in the Government's Bill, because the Government is of the view that such issues should be determined federally and that the State Act should operate to reflect those Federal decisions.

This is the principal theme and effect of the proposed amendments to the registration provisions of the Act. The Government's approach would ensure that demarcation disputes arising over questions of exclusive coverage will be determined federally and not impact directly on this State and on this State's superior industrial relations record. It is considered that the introduction of a section 118-type provision into the South Australian Act would lead to major demarcation problems, as has occurred in other States where such powers have been exercised.

The Hon. I. GILFILLAN: I come down on the side of the Government's argument in relation to this matter. This ogre of the Federal imposition is rather daunting. I hope that, in effect, it does not prove to be as much of a concern as its potential would suggest. That is an aside to this particular argument, and I see no reason why we should move to include this extraordinary power to intrude and change the rules of a registered association in relation to demarcation disputes. I oppose the amendment.

The Hon. K.T. GRIFFIN: I am disappointed that the Hon. Mr Gilfillan takes that view. I would have thought that, given the amendment to clause 10 that we have carried—and hopefully it will carry to other clauses relating to the jurisdiction of the commission—there will be a need for the State commission to make decisions about demarcation disputes and not leave it all to the Commonwealth.

The Hon. I. Gilfillan interjecting:

The Hon. K.T. GRIFFIN: The Hon. Mr Gilfillan states that the power is already there in section 25 (1) *(b)* of the State Act. I submit that that is not the case, because subsection (1) *(b)* refers to any question as to the rights of employees in a specified occupation or calling or in specified occupations or callings to do certain work or a certain kind of work to the exclusion of all other employees or to the exclusion of employees in all or some specified occupations or callings. I submit that that is nowhere near as wide as the provision I seek to insert. My amendment deals with employee associations. Section 25 (1) *(b)* deals with the rights of employees to do certain work: my amendment deals with the rights of associations to represent employees.

The Hon. I. Gilfillan: I would have thought that you would be happy with that clause. It does not actually specify unions; it actually means employees. However, I do not want to contradict your argument.

The Hon. K.T. GRIFFIN: There is a significant difference. On the one hand it is the rights of employees and on the other hand it is the rights of representation of associations. Let us face it, frequently demarcation disputes are about not whether a person can do a certain job but about whether a certain person, being a member of a particular union, should be allowed to do a certain job. Confrontation with an employee who is a member of another registered association and who seeks to be able to do that work is where the demarcation becomes significant. I submit to the Committee that in section 25 (1) *(b)* of the State Act there is no power to deal with that situation. My amendment directly allows the State commission to deal with associations' rights as much as those of employees to do certain work.

Amendment negatived; clause passed.

Clause 15—'Power to grant preference to members of registered associations.'

The Hon. I. GILFILLAN: The Democrats oppose the clause. The issue was canvassed in the second reading debate, and I see no point in repeating the argument for the Democrats' position. Readers can find my explanation in the second reading debate. In essence the amendment moved by the Government is to change the current section in the State Act relating to preference, which has quite a wide capacity for the commission to grant preference, with the proviso that all other things be equal between the employees and applicants for certain work.

I acknowledge that some amendment has been made in the progress of the original Bill to the point where it reaches this place, but it still contains the capacity for a commission clearly to discriminate against a person who has not joined a registered association or a union and, under those circumstances, it still remains an amending clause which the Democrats oppose. The existing clause was inserted by this Government in 1984 and the Democrats see no reason to change it.

The Hon. K.T. GRIFFIN: I move:

Page 9, lines 24 to 47—Leave out this clause and substitute:

Repeal of s. 29a

15. Section 29a of the principal Act is repealed.

This is one, albeit not the only one, of the crunch issues in this legislation. At least the Opposition and the Hon. Mr Gilfillan are of one mind on this clause. We all oppose the provision which gives an opportunity for even further preference to be given to members of registered associations. We, too, will be opposing this clause. That is where our paths cease to follow a parallel line, because we want to go one step further and remove section 29a from the principal Act.

We see no advantage in giving to the commission a power to grant preference to members of registered associations, as the Hon. Mr Gilfillan has said, to discriminate against those who are not members of a registered association.

We believe strongly that there ought to be a freedom to choose whether or not to belong to a registered association. This of particular significance for employees, but equally it should apply to employer associations and the rights of individual employers. There ought to be that freedom for an individual to make his or her own choice in relation to membership of a registered association.

One of the difficulties with the present Act is that, although the Bill refers to all factors relevant to the circumstances of a case being otherwise equal as the basis on which preference is or is not to be given, it does tend towards compulsory unionism. Even if it did not, we still find it unacceptable that preference should be given to any person depending on whether or not he or she does or does not belong to a particular organisation. That is why in relation to other matters—such as Government contracts, construction contracts, and even supply and tender contracts—we find any requirement for preference to be given to members of registered associations offensive and foreign to any concept of freedom of choice.

At the second reading stage I read to the Council the statements made by a Mr Clark, a union official. He indicated that the strengthening of the preference to unionists clause proposed by the Government was desirable because it would make it easier to get members for the union. It

was blatantly stated in that memorandum that that would be the only benefit of a preference to unionists clause. So, although there has been much controversy about the Government's proposal since it introduced the Bill and it has made an amendment to that clause in the House of Assembly, the Liberal Opposition is still vigorously opposed to any concept of preference to unionists. I shall seek to ensure as much as possible, taking into account the numbers, that section 29a is repealed. We oppose clause 15. If it is deleted, I shall seek to move for the repeal of section 29a.

The Hon. C.J. SUMNER: The Government opposes both amendments on the question of preference, which has been a central part of the debate throughout the various stages of this Bill. I will not repeat the arguments. Suffice to say, the Government supports the Bill as introduced and opposes the proposition of the Hon. Mr Gilfillan, which would delete the clauses in the Bill and retain the *status quo*, and even more strongly opposes the proposition of the Hon. Mr Griffin which would remove the existing provisions that were placed in the legislation in 1984.

The Hon. R.I. LUCAS: I support the amendment moved by the Hon. Mr Griffin. I want to place on record two examples of the extraordinary lengths to which unions go, using the existing provisions of section 29a, to compel persons to join unions.

I refer, first, to the Institute of Teachers at the end of last year and the early part of this year, in effect, requiring hundreds of learn-to-swim instructors, who provide vacation swimming on nine mornings of the year generally between the hours of 9 o'clock and 12 or 12.30 during the Learn to Swim Campaign in January, to join the union. Persons applying for those positions were being required by the Institute of Teachers to join that union.

The Hon. R.R. Roberts: Most are registered teachers, anyway.

The Hon. R.I. LUCAS: They are not. It is a long time since the Hon. Ron Roberts has been on a learn-to-swim campaign. A good number of them are registered teachers, but many are not. Many of them, who had in effect been registered swimming instructors or accepted swimming instructors and who had been part and parcel of the Learn-to-Swim Campaign for 10 or 15 years, were upset at the notion that, as non-teachers, they should be forced to join the Institute of Teachers in order to continue to do what they had been doing for 10 or 15 years, namely, for nine mornings in a year, for maybe 27 hours, teaching young people to swim. Some of them refused to join the Institute of Teachers and were unable to obtain employment in the Learn-to-Swim Campaign. That is one example of the extraordinary lengths to which unions will go in trying to increase or maintain their coverage. To go to such extraordinary lengths in relation to persons who are not, never have been and are never likely to be teachers but who instruct young people in the skills of swimming for 27 hours a year is unacceptable.

The second example relates to the Miscellaneous Workers Union. The Hon. Mr Weatherill would probably know the instance well. It relates to cleaners and petty contractors in Government schools being forced to become members of the Miscellaneous Workers Union if they wanted to maintain their school cleaning contracts, which may be for an hour or two a day. I accept that the unions believe that such contractors ought to be members of unions. Of course, we take a different view, but I accept that union leaders have taken that view consistently.

In an appalling extension of that argument, a number of contractors have contacted me, saying that they had organised relief. For example, one particular petty contractor, because she was sick, had to have a housewife fill in for her to clean the school. If she was sick, this particular housewife earned a little extra money by helping to clean the school once or twice a month at most.

The Miscellaneous Workers Union insisted that that housewife, who in this case was on a family farm trying to earn a little extra money to keep the family unit together, had to join that union. That is the sort of argument used by all those in the community who are upset at the extravagant and obnoxious use by some union leaders and officials of the existing preference to unionists clauses in the legislation at the moment.

No-one can convince those people, some of whom lost those short-term jobs because they refused to take up that option, that this is a preference to unionists clause. In their cases—and, in particular, in relation to the learn to swim campaign instructors—they signed or indicated that they were prepared to sign that document or they did not get the job. As I said, a number of them did not take up the instruction to become members of the Institute of Teachers.

There are many other examples, but I will not delay proceedings. I just wanted to place on record two examples and, as I understand the Hon. Mr Gilfillan's position is to stop the further extension but to maintain the *status quo*, and as it would appear that this particular provision will remain in the Act, I think that members in this Chamber at least ought to be aware of some of what I would term the abuses of the current preference to unionists provisions. I would hope that union leaders would at least interpret more sensibly the preference to unionists clauses so that, as I said, some of those learn to swim instructors who, for 10 or 15 years have been quite happily instructing students in swimming, might be able to continue their employment without being forced to join the Institute of Teachers.

Clause negatived.

New clause 15—'Repeal of s.29a.'

The Hon. K.T. GRIFFIN: I move:

Page 9, lines 24 to 47—Leave out clause 15 and substitute:
15. Section 29a of the principal Act is repealed.

The Committee divided on the new clause:

Ayes (8)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Pairs—Ayes—The Hons J.C. Irwin and Diana Laidlaw. Noes—The Hons R.R. Roberts and Barbara Wiese.

Majority of 1 for the Noes.

New clause thus negatived.

Progress reported; Committee to sit again.

[*Sitting suspended from 1.10 to 2.15 p.m.*]

Clause 16—'Applications to the commission.'

The Hon. K.T. GRIFFIN: The Opposition opposes this clause. Clause 16 relates to section 30 dealing with applications to the commission and provides:

Except as otherwise provided in this Act, proceedings before the commission shall be commenced by an application made to the commission—

(a) where, in the Minister's opinion, it is in the public interest that the matter be dealt with by the commission—by the Minister;.

That remains in the principal Act, even under the Government's amendments. The section continues:

(b) by an employer, or group of employers, employing not less than 20 employees in the industry concerned or not less than 75 per cent of the employees in that industry (whichever is the less);.

The Government wants to change the 20 employees to 200 employees. The section continues:

(c) by not less than 20 employees in the industry concerned or not less than 75 per cent of the employees in that industry (whichever is the less);.

Again, the Government seeks to change the 20 to 200. The section continues:

(d) by a registered association of employers the members of which employ not less than 20 employees in the industry concerned or not less than 75 per cent of the employees in that industry (whichever is the less);.

That is to be deleted under the Bill. The section continues:

(e) by a registered association of employees the membership of which consists of, or includes, not less than 20 employees in the industry concerned or not less than 75 per cent of the employees in that industry (whichever is the less).

That, too, is proposed to be deleted by the Government Bill. Paragraphs *(d)* and *(e)* are proposed to be deleted and replaced by four separate paragraphs to allow an application to be made by a registered association of employers; by a registered association of employees; by the United Trades and Labour Council; or by the Chamber of Commerce and Industry, South Australia Incorporated or the South Australian Employers Federation Incorporated. So far as proposed paragraph *(g)* is concerned relating to the Chamber of Commerce and Industry and the South Australian Employers Federation, they are entitled to be registered associations of employers, so they are already covered. I suspect that they are named specifically only to counterbalance the inclusion of the United Trades and Labour Council.

In relation to those employer and employee associations, the Government will introduce a new element into applications to the commission and allow a body such as the United Trades and Labour Council to be involved even though presently it is not permitted to be so involved.

More particularly, the concern that the Liberal Party has about the amendments of the Government relates to the proposal to change the minimum number of 20 employees to 200. This is all part of the bigger scene proposed by the State and Federal Governments to move towards bigger unions and better management of the industrial process, particularly by those outside the immediate ambit of a particular industrial matter.

This amendment also causes concern because it will mean that small groups of employees will no longer have the sort of access that they presently have to the Industrial Commission. It will make them more subservient to bigger organisations and it may well have an impact on bodies such as the university staff association, to which my colleague the Hon. Robert Lucas referred, an association that has already raised concerns about matters of demarcation but, more particularly, about later provisions in the Bill that seek to force smaller associations either to be absorbed into or amalgamated with larger associations or to be completely squeezed out of the industrial arena. So, the Opposition prefers to oppose the clause. I will address some remarks to the amendment of the Hon. Mr Gilfillan when he has explained the reasons for his alternative proposition.

The Hon. I. GILFILLAN: I move:

Page 10, lines 3 and 4—Leave out paragraphs *(a)* and *(b)* and substitute:

(a) by striking out paragraph *(b)* of subsection (1) and substituting the following paragraph:

(b) by an employee, or group of employers, employing not less than—

(i) 20 employees in the industry concerned where the commission is satisfied that there is no registered association to which the applicant or applicants belong, or could appropriately and conveniently belong, that could reasonably be expected to bring the application on behalf of the applicant or applicants;

or

(ii) 200 employees in the industry concerned or 75 per cent of the employees in that industry (whichever is the less);

(b) by striking out paragraph *(c)* of subsection (1) and substituting the following paragraph:

(c) by not less than—

(i) 20 employees in the industry concerned where the commission is satisfied that there is no registered association to which the applicant or applicants belong, or could appropriately and conveniently belong, that could reasonably be expected to bring the application on behalf of the applicant or applicants;

or

(ii) 200 employees in the industry concerned or 75 per cent of the employees in the industry concerned (whichever is the less);.

This amendment is to restrict the unfettered access of smaller groups to the commission. Although on the face of it that does sound restrictive, I have not been unduly deterred from this amendment by any evidence that many such groups will be deprived by a substantial amendment to the Act.

Subparagraph (i) of my amendment allows smaller groups that have no other avenue through which to press their case to front up before the commission. In relation to the other area in which a limited number of people is employed in a work situation, the qualification of 75 per cent may well allow groups that number less than 200 to be represented by the employees or, if the employers wish to appear before the commission, they would have an opportunity through this 75 per cent qualification.

I accept that there is rational argument in limiting those who have automatic right of access to the commission to employers representing 200 or more employees or, in the case of employees, 200 or more, with the proviso that, if no organisation can appropriately and conveniently represent them, they will be covered by subparagraph (i).

The Hon. C.J. SUMNER: The Government will support the amendment.

The Hon. K.T. GRIFFIN: Quite obviously the alacrity with which the Government supported the Hon. Mr Gilfillan's amendment must immediately raise some question about the effect of it. After looking at it, I suggest that it would be impossible for 20 employees in an industry to make separate application to the commission, because the condition precedent to such an application being made and made successfully is that the commission must be satisfied that there is no registered association to which the applicant or applicants belong or could appropriately and conveniently belong that could reasonably be expected to bring the application on behalf of the applicant or applicants.

If one carefully examines that amendment one can see that the commission has the discretion, and, in the coverage of the industrial arena, I would suggest that it would probably be never that the commission becomes satisfied that there is no registered association to which the applicant or applicants belong or could appropriately and conveniently belong. My colleague Mr Ingerson (the member for Bragg) in another place referred specifically to one application about which he was aware involving 20 employees, and that was an application by Cacas Pharmacies, which applied to have the award varied in terms of the amount that would be paid

to workers who worked the 6 p.m. to 12 midnight shift. In those circumstances it proved to be useful.

One could imagine that the staff working in the pharmacy would most likely be able to be represented by the Shop Distributive and Allied Employees Association because they worked in a shop, which is what a pharmacy generally is. One could see that in those circumstances, although the employees of Cacas Pharmacies would have been perfectly happy to work on different terms on the 6 p.m. to 12 midnight shift, if that application has to be made by an association to which they could, under the Hon. Mr Gilfillan's argument, belong, it would be less likely that the association would make the application to vary an award only in relation to one business. That is the good thing about the present situation; it gives that flexibility and allows an employer or employers, even a small number of employees, to make their own application to vary an award without being constrained by the dictates of a large registered association.

The moment one goes to an amendment of the nature proposed by the Hon. Mr Gilfillan, I think one must quickly reach a conclusion that it will be impossible for the Cacas Pharmacy-type employees to operate with some degree of freedom and to make their own arrangement with their employer.

I still believe that the better course is to oppose the whole of clause 16. It goes to the heart of the issue of representation of small numbers of employees. I doubt whether the Hon. Mr Gilfillan's amendment will achieve anything better than what the Government is proposing, and it is certainly very much worse than the existing provisions of the legislation.

Amendment carried.

The Committee divided on the clause as amended:

Ayes (9)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Noes (8)—The Hons J.C. Burdett, L.H. Davis, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Pairs—Ayes—The Hons R.R. Roberts and Barbara Wiese. Noes—The Hons Peter Dunn and R.I. Lucas.

Majority of 1 for the Ayes.

Clause as amended thus passed.

Clause 17—'Unfair dismissal.'

The Hon. K.T. GRIFFIN: The Opposition opposes this clause. It relates to section 31 of the principal Act, which deals with unfair dismissal. I referred to this in consideration of amendments to clause 6 of the Bill where we were talking about an extension of the jurisdiction of the court in relation to claims by employees or employers, either for amounts that have been underpaid in terms of wages or contributions to superannuation funds that have not been properly made.

At that stage I indicated that, even within the principal Act, a distinction was drawn between the underpayment of wages situation where it applied only to those under an award or industrial agreement and section 31 of the principal Act where the unfair dismissal provisions extended beyond those covered by an award or industrial agreement.

I did not succeed in maintaining the *status quo* under section 15, but we now have the opportunity to achieve some consistency in the legislation and to maintain the *status quo* so that claims in relation to unfair dismissal can be made whether or not a person's remuneration is governed by an award or industrial agreement and regardless of the amount of the claim. The Government's clause 17 seeks to limit the right of access to the commission for unfair dismissal claims to situations where the employee's remuneration is governed by an award or industrial agreement or where the employee's annual remuneration, excluding overtime payments from the date of the dismissal, was $65 000, or an amount which in subsequent years is to be indexed.

The employer bodies wanted to have some limitation on accessibility to the commission in relation to unfair dismissal matters, but only because they wanted to limit the time taken by these applications in the Industrial Commission. However, having seen the amendments in the Bill, they are concerned that they really will make no difference to the time taken to deal with matters. In fact, they suggest that, rather than reducing the workload of the commission, the Government's proposal will increase the workload, particularly where there is argument over the annual remuneration and what is or is not overtime.

That is particularly necessary under new subsection (2b), where the commission is to determine the value of non-monetary benefits in the nature of remuneration. Such a determination is to be final without appeal. In my view, that in itself is an injustice and makes the commission in respect of that decision a kangaroo court and a law unto itself. However, that is peripheral to the major issue which seeks to limit applications in the ways to which I have referred.

The employers and others to whom I have spoken, having seen what the Government proposes, prefer the *status quo*. The *status quo* is consistent with the amendments which have now been passed by the Committee to clause 6 relating to section 15 of the principal Act, particularly where one considers that any amount which might be due to any employee or former employee under an award, industrial agreement or a contract of employment may apply to the commission.

In clause 17 the Government proposes that the reverse situation apply. If for no other reason than for the sake of consistency, but more particularly because there is not perceived to be any merit in the Government's amendment, I indicate opposition to the clause.

The Hon. C.J. SUMNER: The purpose of the Government's amendment is to remove those cases involving senior management being taken as section 31 claims where the aim is compensation rather than reinstatement. These latter cases have clogged up the wrongful dismissal jurisdiction and it is believed that they are better handled in the civil courts as a claim for breach of contract. The Government has been informed by the commission that the proposed restriction will affect about 15 per cent of applications which at this time generally occupy over 30 per cent of the commission's resources in dealing with such types of claims.

The Hon. I. GILFILLAN: I support the clause. It is not a situation where I believe there is a great sense of injustice if people in the category to be excluded are excluded, provided it is an indexed figure, especially when the statistics as I have been informed indicate that 30 per cent of the time is taken up with these matters. Logistically it is appropriate that they be excluded from the jurisdiction.

The Hon. K.T. GRIFFIN: It is curious that the Attorney's response is that this is designed to take senior management type applications out of the Industrial Commission in respect of unfair dismissal, yet to include them by positive act of the Government under clause 6. There is a direct contradiction to the argument that the Attorney is putting.

Clause passed.

Clauses 18 to 22 passed.

New clause 22a—'Ability of Commonwealth Registrars to act under this Act.'

The Hon. C.J. SUMNER: I move:

Page 11, after line 37—Insert new clause as follows:
Insertion of s. 48a
22a. The following section is inserted after section 48 of the principal Act:
Ability of Commonwealth registrars to act under this Act
48a. A registrar appointed under the Commonwealth Act may, pursuant to an arrangement made between the Minister and the Minister responsible for the administration of the Commonwealth Act and subject to such conditions or limitations as may be determined by the Minister, exercise the powers of a registrar appointed under this Act.

The new clause provides for the Commonwealth registrar to exercise the powers of the State registrar. This flexibility will assist in reducing duplication in the tasks of the registries and streamline their administration. Work is currently underway to arrange collocation of the State and Commonwealth commissions in Adelaide which will dovetail with this amendment.

The Hon. K.T. GRIFFIN: I am not convinced of the necessity for it so I will not support the new clause.

The Hon. I. GILFILLAN: I support the new clause.

New clause inserted.

Clause 23—'Inspectors.'

The Hon. K.T. GRIFFIN: I move:

Page 12, line 10—Leave out 'appointed'.

This clause deals with inspectors. My concern with this clause is that there could well be some difficulty in determining whether or not a person is actually an inspector. The clause that the Government proposes to insert provides that certain persons are to be inspectors for the purposes of the Act: a person appointed by the Minister to be an inspector or a person appointed as an inspector under the Commonwealth Act, who is, in accordance with the terms of an arrangement made between the Minister and the Minister responsible for the administration of the Commonwealth Act, authorised to exercise the powers of an inspector under this Act.

If such an arrangement is in place, a Commonwealth inspector will be able to exercise authority under the State Act. The difficulty with that is that anyone who purports to act under the Commonwealth Act will not necessarily be identifiable as such, so my amendment is to provide that each inspector under this Act, whether operating under the Commonwealth arrangement with the States or appointed by the Minister, should be furnished by the Minister with an identity card.

The Hon. C.J. SUMNER: This amendment is accepted.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 12, lines 12 and 13—Leave out '(issued under this Act or the Commonwealth Act)'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 24 to 32 passed.

Clause 33—'Entitlement to appeal.'

The Hon. K.T. GRIFFIN: I move:

Page 13, lines 27 to 37—Leave out clause 33 and substitute:
Persons entitled to appeal
33. Section 97 of the principal Act is amended by striking out paragraph *(a)*.

The Government's amendment sets in place a different range of persons who might be entitled to appeal against an award or decision of the commission. Clause 33 provides:

(a) a party to the proceedings in which the award or decision was made;
(b) a registered association that is affected by, or whose members are affected by, the award or decision;
or
(c) by leave of the commission—any other person or group of persons by which an application to the commission might be made.

That latter provision is somewhat limiting and, under existing section 97, there is recognition that others may be entitled to appeal. Section 97 of the Act provides:

(a) in the case of an appeal from a decision of a committee, by the majority of the members representative of employers or the majority of members representative of employees, on the committee;.

My amendment seeks to delete that paragraph, but to maintain the *status quo*, subject to that amendment. I have lost the debate on conciliation committees. So, it is appropriate that, as a consequence, we take out paragraph *(a)* of present section 97. However, having retained the reference to '20 employees' in consequence of the Hon. Mr Gilfillan's amendment, it would seem to me that we ought, therefore, to leave in those parts of existing section 97 which give those employers, or groups of employees a right to appeal.

Paragraph *(b)* of the existing section gives a right of appeal to an employer or group of employers employing not less than 20 employees subject to the award appealed against or not less than one-quarter of the total number of employees subject to the award, whichever is the lesser. Paragraph *(c)* deals with an appeal by not less than 20 employees subject to the award appealed against or not less than one-quarter of the total number of employees subject to the award, whichever is the lesser.

The section then picks up a registered association, which is, or some of the members of which are, subject to the award appealed against; in the case of an award affecting employees of a prescribed employer by the prescribed employer; in the case of an appeal, challenging or disputing the whole or part of the award solely on the grounds of illegality, by any interested person or association; and in the case of an appeal against a decision or order made by the commission in exercise of the jurisdiction conferred on it by section 25 (1) *(b)* or an application made to it under section 81 by any of the parties concerned or, in the case of an appeal against an order made by the commission in the exercise of its jurisdiction conferred on it by section 39 by any person or association that was a party to the proceedings under that section.

It is my view that, consistently with the position that now applies in the Bill in relation to clause 16, where the Hon. Mr Gilfillan's amendment was successful, we should retain section 97, but subject to the deletion of paragraph *(a)*. I therefore indicate opposition to the existing clause, but I support a new clause to amend section 97 by striking out paragraph *(a)*.

The Hon. C.J. SUMNER: The Government opposes the amendment.

The Hon. I. GILFILLAN: As a result of consultation, I believe that section 97 will allow, under paragraph *(a)*, a party to the proceedings in which an award or decision was made to appeal; or paragraph *(c)* provides:

by leave of the commission—any other person or group of persons by which an application to the commission might be made.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: The interjection was that that is by leave, and I acknowledge that. I believe that paragraph *(a)* would certainly ensure that any group of 20 or more that got through the window that my amendment allowed would have automatic right of appeal. Under those circumstances, I do not intend to support the amendment.

Amendment negatived; clause passed.

Clause 34 passed.

Clause 35—'Stay of operation of award.'

The Hon. K.T. GRIFFIN: I move:

Clause 35, page 14, lines 17 and 18—Leave out all words in these lines after 'Full Commission' in line 17 and substitute 'must stay the operation of the award'.

The Government's Bill seeks to provide that, where there is an appeal against an award of the commission relating to unfair dismissal, the Full Commission can stay the operation of the award in so far as it awards compensation. The Government's Bill provides that the stay of operation will not be permitted so far as it provides for re-employment.

So, we have a curious situation where there is an award by the commission against which there is an appeal which might relate to arrears of wages and to an order for re-employment. The commission may exercise its discretion to stay the operation of the award so far as it relates to the monetary amount, but the commission will not have any discretion to stay the award relating to re-employment.

Therefore, you have a former employee who has taken action for unfair dismissal being successful in being awarded an amount of money and obtaining an order for re-employment. When the matter goes on appeal, the Full Commission may say to the employer that he does not have to pay the money yet, that it will deal with it when the appeal is heard but that it has no power to stay the operation of that part of the award requiring the employer to re-employ the employee.

When the appeal is heard, if the employer should be successful, we have a curious situation—in fact, an extraordinary situation—where the employee, having been reinstated, might then be removed from the employment by decision of the Full Commission. That is unsatisfactory for both employer and employee as well as members of the work force who might be in the same premises in which the reinstated employee is working and, I think, it would be highly disruptive.

I should have thought that common sense would require that were there provision to stay the award it ought to apply not just to the compensation, but also to an order for re-employment or any other orders which might be consequential upon it. In that way the commission can exercise discretion. It does not have to stay the operation. Then the whole matter can be resolved on appeal.

It is not as though the employee will be disadvantaged by that, because it may be part of the Full Commission's ultimate decision that back pay for the whole period up to the time of determination of the appeal should be paid and an order for re-employment or any other orders made. I should have thought that common sense would require the Full Commission to have full discretion and not have one hand tied behind its back with the consequent disruption which that can impose on both employer and employee or former employee. I have therefore moved the amendment to provide that full discretion will be permitted to be exercised by the commission. One must remember that it is a discretion.

The Hon. C.J. SUMNER: The Government opposes the amendment. The Government's position is that a stay of execution of an order or award under section 31 should be permissible when it relates to compensation but not to an order for reinstatement, as most cases for reinstatement are made by low income workers who do not have the resources to cope with extended periods without income. The Government's position is essentially the same as what is in the present Act.

The Hon. I. GILFILLAN: I am persuaded by the the Hon. Mr Griffin's argument that there is a problem here. I do not believe that it will be resolved—certainly not to my satisfaction—by either of the alternatives that confront me. It seems to me that 'at the discretion of the commission' allows the commission to take into account the situation of an employee who has been dismissed and has appealed against that dismissal. It is somewhat confusing.

If the commission was automatically instructed to order re-employment if the matter was to go to appeal, there would be a certain imposed factor on the readiness of dismissed employees to go to appeal, whether or not they believed they would get it. I may be misinterpreting it, but I point out that it is a confusing—

The Hon. C.J. SUMNER: It is not discretionary under the Hon. Mr Griffin's amendment.

The Hon. K.T. Griffin: 'May'.

The Hon. C.J. SUMNER: You say 'must'. That is what your amendment says.

The Hon. I. GILFILLAN: He was certainly arguing for a discretionary power. Is there a fault in the wording?

The Hon. K.T. Griffin: Yes, instead of 'must' it should be 'may'.

The Hon. I. GILFILLAN: If, as I understood the argument, it is a discretionary amendment, I will support it.

The Hon. K.T. GRIFFIN: I accept responsibility for it being there. Having spoken to it on the basis that it was discretionary, obviously I was proposing it in that way. Therfore, I seek leave to change the word 'must' to 'may', and move it in that form so that it becomes discretionary in all respects.

Leave granted; amendment amended.

Amendment as amended carried; clause as amended passed.

Clauses 36 to 38 passed.

Clause 39—'Approval of commission in relation to industrial agreements.'

The Hon. I. GILFILLAN: I move:

Page 15—
Lines 9 and 10—Leave out paragraph *(c)*.
Lines 26 to 29—Leave out subsection (8) and substitute:
(8) After the commencement of this subsection, an industrial agreement to which an unregistered association of employees is a party cannot be approved by the Commission unless—
(a) the membership of the association consists (wholly or substantially) of employees who cannot appropriately and conveniently belong to a registered association of employees;
or
(b) the agreement varies an industrial agreement previously approved by the Commission.

If my amendment is successful, there may be a situation in which an unregistered association may acquire an agreement. Under those circumstances, the existing paragraph should still apply. It is appropriate that, if an agreement or award is to be effected, it does not diminish the overall effect of an award that has been achieved through a registered association elsewhere at another time.

As to the second amendment, the existing provision, in effect, would mean that no new agreements could be struck by an unregistered association but that already established agreements could be amended. My intention is to change that wording in such a way as to retain the *status quo* but restrict the unregistered association's access only to those unregistered associations whose employees could not appropriately and conveniently belong to a registered association of employees.

The Hon. K.T. GRIFFIN: Members will recognise that my preference is to leave section 108a of the principal Act as it is, although I would move an amendment to subsection (2), which provides:

The commission must not approve an industrial agreement to which an unregistered association of employees is a party unless it is satisfied—
(a) that its terms are fair and reasonable;
and

(b) that the industrial agreement, when considered as a whole, does not provide conditions of employment that are inferior to those prescribed by a relevant award (if any) applying at the time that application is made for the approval of the agreement under this section.

I am proposing that that provision should read:

... that the industrial agreement, when considered as a whole, does not provide for a level of remuneration that is inferior to the remuneration prescribed by a relevant award (if any) applying at the time that application is made for approval of the agreement under this section.

I am seeking to do that to ensure there is a base level of remuneration below which an agreement could not be made, but that all other matters were negotiable. That is the policy of the Liberal Party at the Federal level as well as at the State level, that there ought to be enterprise based agreements if parties wish to negotiate them and, provided there was, in a sense, a safety net below which the remuneration could not fall, then we should allow parties to reach their own agreement on terms and conditions. So, my amendment seeks to do that.

In dealing with the amendments proposed by the Hon. Mr Gilfillan, I would agree with the deletion of paragraph *(a)* because we now have in the Bill, even though inadequate in my view, a provision which allows an unregistered association of employees to be a party to an agreement, and for that reason we need to ensure that this section 108a is consistent with what we have now agreed. I acknowledge also that the Hon. Mr Gilfillan's amendment to substitute a new subsection (8) is consistent with the provisions which earlier we have included, although again I do not like the provision but, for the sake of consistency, one has to support the amendment.

In addition, a matter which I suggest is consequential on an earlier amendment relates to lines 19 to 24. Paragraph *(b)* of clause 39 seeks to include a new subsection (4a) which sets some parameters within which the commission may exercise its powers under section 108a. It must consider whether it should consult with appropriate peak councils representing employer or employee assoications and may consult with any such council, and previously that has been agreed by a majority of the Committee. Therefore, I have no alternative logically but to allow that to remain in. It also requires the commission to have regard to the objective of achieving a coherent national framework of employee associations and to any awards or decisions of the Commonwealth commission directed at achieving that objective, and must give effect to the principles on which those awards or decisions are based so far as may be appropriate in the circumstances of the particular case. Earlier in relation to demarcation disputes, that paragraph has been removed and, for the sake of consistency, I would argue that that paragraph must also be removed from this and subsequent provisions. Acknowledging that there have been amendments, some with which I do not entirely agree, I have to proceed with consideration of clause 39 in the Bill along the lines that I have already indicated.

In addition, it would seem to me now not appropriate to oppose the clause. Instead of moving to strike out paragraph *(b)* of subsection (2) and to insert a new paragraph *(b)*, as a total replacement of clause 39, it seems to me that I can still move that amendment but in a different form. I will propose at the appropriate time not to oppose the whole of clause 39 and to support the Hon. Mr Gilfillan's two amendments. I foreshadow the following amendments, one of which is consequential on the earlier decision. Subject to advice, I suggest that after line 10 we insert new paragraph *(ab)*, strike out paragraph *(b)* of subsection (2) and substitute the paragraph *(b)* contained in the amendment that I have on file. I then foreshadow a further amendment, unless the Hon. Mr Gilfillan has this matter under control, at lines 18 to 24, to leave out all words in those lines, making it consistent with the earlier amendments that have been carried.

The Hon. C.J. SUMNER: The Government's view is that the Bill as introduced should proceed and that it is inappropriate for unregistered associations to have access to the Industrial Commission. South Australia is one of the few jurisdictions where such access is allowed. They do not have access to the Federal Commission. Unregistered associations do not have to observe any of the rules and regulations applying to registered associations under the Act and are thus at an advantage over registered associations in this respect. Members of unregistered associations thus do not have the normal protections that exist with registered associations. That is the Government's basic position but, as there is agreement opposite to move other amendments, that will carry the day.

The Hon. I. GILFILLAN: I have a couple of comments that may not be clearly in line with the thread of the amendments, but I would like to make those comments now. I have looked at the amendment to clause 39 which the Hon. Trevor Griffin intended to move. The change of wording in that clause is relatively minor but significant enough in meaning. His proposal to replace the words 'level of remuneration that is inferior to the remuneration prescribed by a relevant award' is unacceptable to me. I prefer that the wording in the current Act remain.

The other matter that I hope will emerge from this network of amendments is that, although any unregistered association should be restrained by that bottom level so that there cannot be any manoeuvring by unregistered associations or pressure put on unregistered associations to undermine an award or to achieve a level under an award, I do not believe that that same restraint should apply to registered associations. It is my opinion that there are circumstances in which a union may willingly—in fact, it may well be the initiator for certain reasons—look at getting the commission to approve an award which, on balance, provides a level that is lower than a relevant award applying at the time of the application.

In any case, I am prepared to allow the union or the bodies involved to have the authority; they have my acknowledgement of their capacity to make those applications in their own right. Therefore it seems to me to be impudent to instruct registered associations that they cannot enter into an agreement that is different from a certain level. What I hope will emerge from this series of amendments is that, for unregistered associations, this base level applies (the one currently in the Act; in other words, the *status quo* would remain in the Act) and there will be no variation on the *status quo* in the Act as far as registered associations are concerned. They can enter into agreements at whatever level, in their wisdom, they seek and have granted by the commission.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 15, after line 10—Insert new paragraph as follows:

(b) by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

(b) that the industrial agreement, when considered as a whole, does not provide for a level of remuneration that is inferior to the remuneration prescribed by a relevant award (if any) applying at the time that application is make for approval of the agreement under this section.

We have canvassed the debate. I see no difficulty in allowing unregistered associations to negotiate at an enterprise level. It does not worry me if they are able to come to some satisfactory and mutually acceptable arrangement that might

actually be lower than the award in terms of conditions other than the level of remuneration. I note what the Hon. Mr Gilfillan has indicated, that he will not support this amendment. Although I believe it is important, if I lose on the voices I will not divide.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 15, lines 18 to 24—Leave out all words in these lines.

It removes this stifling provision that the objective should be the achievement of a coherent national framework of employee associations. I would not have thought that it had any relevance, even if one accepted the principle, which I do not. I would not have thought it had any relevance in relation to the sorts of agreements with unregistered associations of employees that we are currently talking about. In any event, it is consistent with our removal of that provision from an earlier clause relating to demarcation disputes.

The Hon. I. GILFILLAN: I am not too fussed about it. I agree with the Hon. Trevor Griffin that it does not seem on the face of it to be appropriate in this particular clause and I would have preferred it to be worded in such a way that it says 'should have regard', but I do not see how it can have any disturbing effect other than its being a reminder, perhaps an uncomfortable reminder, so I do not feel strongly about its presence in this clause.

The Hon. R.I. Lucas: Why not be consistent?

The Hon. I. GILFILLAN: As I said in my second reading speech, it is a dilemma, because I do see some advantages. If it comes in constructively, a national framework will be an advantage. I do not think anyone denies that.

The Hon. R.I. Lucas: What is this coherent national framework?

The Hon. I. GILFILLAN: That is a very relevant question, but it is the motive that we are seeking in industrial relations, and provided it does not cancel out the individuality and the rights of the State, it is fine. I do not want to be led into that discussion because we have already had that, and it is not appropriate to the issue as to whether those words should stay or be deleted. I do not care. I do not think it will have any effect on the way in which these awards will be determined. I am prepared to listen; I am almost certain the Government will say that it wants the words to remain so the Bill conforms with the Federal legislation. In that case, the words might as well stay there.

The Hon. R.I. LUCAS: I accept what the Hon. Mr Gilfillan said about this dilemma and I listened with interest to his second reading contribution, but the question I put to him by way of interjection was genuine because it is one that he put, as did the Opposition, to the Government as to what is this coherent national framework.

The Hon. I. Gilfillan: It is emerging.

The Hon. R.I. LUCAS: That is right, it might be part of this emerging national spirit of reconciliation that the Hon. Mr Roberts talked about the other evening. Until it emerges or manifests itself in a form about which we can make a judgment, I think the Hon. Mr Gilfillan's initial viewpoint expressed about an earlier clause is probably the best one. Let us be consistent and if at some stage this coherent national framework emerges or manifests itself for all of us to make judgments about, let us talk about it at that stage. It may well be that the Hon. Mr Gilfillan is convinced that it is a good thing, and we might be convinced, too. It would appear to me that, if we have already deleted these words from an earlier clause, we should stick with that option and leave it to another day when both the national and State Governments can convince the Australian Democrats and the majority of the Parliament of the view that the national framework is indeed a good thing for industrial relations in South Australia.

The Hon. C.J. SUMNER: The Government opposes the amendment.

The Hon. K.T. GRIFFIN: We have to focus on what section 108a is about. It relates to the approval by the commission of an industrial agreement to which an unregistered association of employees is a party. That industrial agreement must not be approved unless certain criteria are met. Under new subsection 4 *(a)*, the commission must consider whether it should consult with appropriate peak councils and it must have regard to the objective of achieving a coherent national framework of employee associations and to any awards or decisions of the Commonwealth.

It is not just a State-based decision, it is a decision in relation to this small group of people who have an industrial agreement as to whether they fit within this so-called coherent national framework of employee associations—whatever that means. In my view it is quite likely that, even though there may not be a lot of these agreements in the future as a result of the Hon. Mr Gilfillan's amendment, it is important to maintain consistency otherwise these principles would apply to unregistered associations and place, perhaps, an unfair and unreasonable burden on them, as opposed to what the bigger organisations might be able to achieve. I urge support for my amendment.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 15, lines 26 to 29—Leave out subsection (8) and substitue:

(8) After the commencement of this subsection, an industrial agreement to which an unregistered association of employees is a party cannot be approved by the Commission unless—

(a) The membership of the association consists (wholly or substantially) of employees who cannot appropriately and conveniently belong to a registered association of employees;

or

(b) the agreement varies an industrial agreement previously approved by the Commission.

I have spoken exhaustively to this matter, and I think the amendment flows on from what I have said. My amendment seeks to leave out subsection (8) and substitute the wording in my amendment.

The Hon. K.T. GRIFFIN: I acknowledge that the amendment is consistent with the earlier amendments which have been carried. This subclause is unnecessary but, on the basis of what is proposed, I do not have any alternative other than to support it.

Amendment carried; clause as amended passed.

Clause 40—'Adding parties to agreements.'

The Hon. I. GILFILLAN: We oppose the clause.

The Hon. K.T. GRIFFIN: It is a matter of opposing the clause, which I have indicated I will also do. Section 109 of the principal Act relates to the addition of parties to an industrial agreement. The Government's amendment seeks to allow that only in relation to registered associations but, as the Hon. Mr Gilfillan indicates, that is inconsistent now with earlier amendments and, therefore, for other reasons I will continue to oppose the clause.

Clause negatived.

Clause 41—'Effect of industrial agreement.'

The Hon. K.T. GRIFFIN: This clause amends section 110 of the principal Act, which provides that industrial agreements are binding on all parties to the agreement and all members for the time being of any association which is a party. Subsection (3) provides that where an industrial agreement in force immediately before the commencement

of the Industrial Conciliation and Arbitration Act Amendment Act 1984, subsection (2) of section 110 does not apply to the agreement in force immediately before the commencement of the Act and, where the agreement is varied after the commencement of that 1984 amending Act, any provision of the agreement then operates to the exclusion of inconsistent provisions of an award. I should have thought that, consistently with amendments we have already passed in relation to industrial agreements, there is now no point in proceeding with clause 41, and I indicate opposition to it.

The Hon. C.J. SUMNER: The Government opposes the deletion of the clause.

The Hon. I. GILFILLAN: We support the clause.

Clause passed.

Clause 42—'Substitution of Part IX.'

The Hon. K.T. GRIFFIN: I move:

Page 16, lines 13 and 14—Leave out paragraph *(b)*.

The whole of clause 42 is an important one and it deals with associations. Division I deals with applications and objections. Where there is an application for registration, one of the things the Registrar must do is to give notice of the application to peak councils representing employer and employee associations, presumably because of the need to involve the industrial relations club. I oppose that, since I see no need for it other than the fact that it is a proposal to involve the bigger organisations in something that may not necessarily directly concern them.

The Hon. C.J. SUMNER: The Government opposes this amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 16—
Line 32—Leave out '1 000' and substitute '20'.
Line 37—Leave out '1 000' and substitute '20'.

This relates to proposed new section 116, which provides that certain associations are eligible for registration, including an association of employers, consisting of two or more employers who employ in aggregate not fewer than 1 000 employees, whether or not the membership of the association includes persons who are not employers. It also includes an association of employees consisting of not fewer than 1 000 employees. That is all part of this drive towards super unions. In each instance, the present number is 20. The Liberal Party's position is that that should prevail.

The Hon. C.J. SUMNER: The Government opposes the amendment.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. I believe that my Federal colleague Senator Paul McLean was responsible for reducing the number in the Federal legislation to 1 000. I cannot recall the original number, but I believe it was 10 000. It is important to observe that a large proportion of this Bill is attempting to align the State legislation with the Federal legislation. I have expressed concern, and I continue to express concern, that a mindless surge which absorbs all the State legislation and its individuality is rather worrying. On the other hand, there is a lot to be lost if we do not recognise that, for the good of Australia generally, there are very good arguments for a parallel and similarity and, in fact, a common momentum towards industrial reform right across the country. This is not an ideal forum in which to have an in depth discussion about industrial relations in Australia. It may be a regret that can be addressed in another place at another time that we have not had a wider debate with interested parties on this matter before the Bill was introduced.

The Hon. J.F. Stefani: Or the opportunity.

The Hon. I. GILFILLAN: Or the opportunity, as the Hon. Mr Stefani interjects. I believe that it is inevitable that we will move to larger entities with more uniformity and conformity and less fragmentation. I support the measure in the Bill.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 17, lines 11 to 20—Leave out paragraph *(e)* and substitute:
(e) that there is no other registered association to which the members of the applicant association might conveniently belong;.

This section deals with registration of associations. The commission may register an association if it is satisfied of a number of things, one of which is mentioned in paragraph *(e)*, which provides:

in the case of an employer association—no other registered association to which the members of the applicant association might conveniently belong;.

I do not believe that that creates a problem. However, paragraph *(e)* (ii) provides:

in the case of an employee association, no other registered association whose continued registration is, in the commission's opinion, consistent with implementation of the objective of achieving a coherent national framework of employee associations, to which the members of the applicant association might conveniently belong.

My amendment replaces paragraph *(e)* with a simple provision that there is no other registered association to which the members of the applicant association might conveniently belong. That accommodates to some extent the concerns expressed by the Hon. Mr Gilfillan that there should be some move towards rationalisation, but I suggest that it does not compromise the process of assessment of an application in South Australia by having to have regard to the so-called coherent national framework of employee associations to which the members of the applicant association might conveniently belong.

There is no definition of a coherent national framework of employee associations, as we have already discussed. It seems to be a move by the Labor Governments to move towards big unions, but if we leave in this provision it will have the potential seriously to compromise associations seeking registration in South Australia, because it will allow the commission, in exercising its discretion, to say that it is more convenient for employees to belong to the Miscellaneous Workers Union or the Clerks Union rather than the University Staff Association.

All of one's interests would be covered by the bigger union which, when we look at it objectively, is likely not to adequately represent the interests of members of the university staff because they have a totally different environment within which to work and perhaps a totally different attitude towards their responsibilities and duties in an academic environment. That association, as my colleague the Hon. Robert Lucas will indicate, has stated that it is very concerned about those provisions in proposed sections 117 and 124, which are likely seriously to prejudice their representation. I agree with that. It relates not only to them but also to others.

Although the Attorney-General has indicated that the coherent national framework of employee associations has been described in the second reading explanation and at the Federal level, it is still an incoherent objective rather than a coherent one, and one is really allowing persons outside South Australia to make decisions affecting the interests of South Australians.

It is a move towards conforming rather than a facilitation of proper structures so that both employers and employees can be properly represented in the industrial environment that exists in South Australia, an environment which does

differ quite significantly from that in a place such as Sydney. So, my amendment is to remove that provision and replace it with a simple provision which gives the State commission some measure of control but not dominated by interests which are external to South Australia and which have not defined, as opposed to described, the so-called coherent national framework of employee associations.

The Hon. C.J. SUMNER: The Government opposes the amendment. It cuts across the intention of the Bill to support unions in a conveniently belong argument where those unions satisfy the coherent national framework.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

The Hon. R.I. LUCAS: As I indicated in my second reading contribution, there is grave concern by the University Staff Association of South Australia about this provision in sections 117 and 124. I am appalled at the attitude that the Hon. Mr Gilfillan has expressed to this aspect of the Bill. Earlier, the honourable member indicated, as he did in his second reading contribution, that he did not know what this coherent national framework of employee associations was about. Indeed, he was assisting in the asking of questions of the Attorney-General who—I think the Attorney would have to concede—was very unconvincing in his responses to what this coherent national framework of employee associations was. The Hon. Mr Gilfillan, again during the Committee stage, was prepared to indicate that it is an interesting question as to what this coherent national framework of employee associations is. He supported its deletion earlier and then allowed its retention. Now here we are—

The Hon. I. Gilfillan: Demarcation.

The Hon. R.I. LUCAS: I said that you supported the elimination earlier and then you supported its retention in relation to another clause. Now, in relation to the crunch sections 117 and 124, all of a sudden, for whatever reasons the Hon. Mr Gilfillan will not even give to the Committee, he is prepared to say, 'I am prepared to go along with whatever this coherent national framework of employee associations is going to be.'

An honourable member: Not knowing what it is.

The Hon. R.I. LUCAS: Not knowing what it is. It will be interesting, when it manifests itself, to see what it is. The Hon. Mr Gilfillan is prepared to buy a pig in a poke on the basis that he does not want to go against the Government's wishes on this aspect. The Government was very concerned, as the Hon. Mr Gilfillan knows when he indicated earlier that he would support the Liberal Party in removing the reference to the coherent national framework of employee associations. Quite properly, he was subject to considerable input from the Government and its advisers in relation to maintaining the coherent national framework of employee associations for the rest of the Bill. Then, all of a sudden, the Hon. Mr Gilfillan has gone to water again. From taking one position earlier in the Bill, later he disappears down the other plughole.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: You did not say anything. You just said that you were opposing the amendment. I would have been delighted—

The Hon. I. Gilfillan: You will be blessed with an answer in due course.

The Hon. R.I. LUCAS: I am pleased that we have at least prompted an answer, because the University Staff Association and the others who have made submissions to the Parliament on this issue deserve something more from the Hon. Mr Gilfillan than, 'I am opposing the amendment.' I am sure that the Hon. Mr Elliott, who is the shadow Minister for higher education and education services, as well as being the deputy leader of the Democrats in South Australia—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: Well, he would see himself as a Minister in waiting. I am sure that he will be interested, when he next goes on campus to put the viewpoint to higher education staff in particular—and it is one of the constituencies that the Democrats nationally and in the State have sought to woo in relation to their policies in higher education—

The Hon. R.J. Ritson interjecting:

The Hon. R.I. LUCAS: They have been doing pretty well, because the universities are grumpy about the Federal Government's policies. As I said, the Hon. Mr Elliott will feel the brunt of the decisions that the Hon. Mr Gilfillan is taking in relation to this matter.

As I indicated in the second reading, the university staff association know what the ACTU and, in particular, Mr Laurie Carmichael—that noted Australian educator and expert of higher education—are up to in relation to the coherent national framework.

I indicated in the second reading—and I will address it again—the draft national framework with the principal unions' coverage for higher education institutions, concerning which Laurie Carmichael and his cohorts, and the contacts within the ACTU, are doing deals—

The Hon. G. Weatherill: Dear Laurie!

The Hon. R.I. LUCAS: Dear Laurie, as the Hon. Mr Weatherill says. They are doing deals—they are doing in New South Wales and Victoria as to which unions will get coverage for what areas of industry and occupation throughout Australia. So, they are carving up the smaller associations so the Federated Clerks Union or the PSA, or both of them, will get significant coverage for the university or higher education institutions in South Australia and nationally. So, the university staff associations will no longer be able to represent the professional staff and other general staff that they have represented, and represented well, for many years in South Australia and in other States.

The Hon. T. Crothers: They may as well just join the 'misco's' union.

The Hon. R.I. LUCAS: Why not? If the PSA and the federated clerks are in for their bite, why not let the 'misco's' or the liquor trades in for a bit as well?

The Hon. T. Crothers: Even you.

The Hon. R.I. LUCAS: Even me—no, I am not a union. But why not? The reason why not is that, so far, they have not had the crunch to do the deals. In the near future they may well be able to because I understand that the Industrial Relations Commission did not bring down its finding on 10 April as was anticipated and that the coverage under the coherent national framework is now not likely until late May. So, if the federated clerks, their representatives and officers, the PSA, the 'misco's', liquor trades, or whoever else, want to start talking turkey again with Laurie and the boys interstate to see who can do the best deal—to see who can carve up the small associations and who can do the best deal—it is merely a matter of saying, 'You can have this particular institution, or this particular occupation, for coverage.'

It is not a question of who can best represent the members or who can best represent the professional staff, in particular, at the University of Adelaide or Flinders University: it is a question of deals being done nationally—it is a question of deals being done with Laurie and the boys and the ACTU interstate—to see who can carve up the smaller associations and unions like the University Staff Association

of South Australia which now has a membership approaching 1 000 in this State. All the deals will be done not here in South Australia but with Laurie and the boys, and maybe if a few people from South Australia have any national influence in the union movement they will have to hop on a plane and do their deals in Sydney or Melbourne to see whether they can get a piece of the action.

But it is not a question of who best represents those professional staff or, indeed, of the professional staff at the university staff association being able to say, 'We would like to be represented by the university staff association.' I can understand the attitude of this Government, but I cannot understand, for the life of me, why the Hon. Mr Gilfillan is not at least prepared to say to the professional staff of the University of Adelaide, 'We will at least let you have a choice.'

The Hon. T. Crothers: He's sensible.

The Hon. R.I. LUCAS: On occasions I agree that the Hon. Mr Gilfillan is sensible but on this occasion he is not; he is being centralist, because what he is saying to the professional staff at the University of Adelaide is that, with this coherent national framework (of which he is now a grudging admirer and supporter by way of his vote), in the future, the professional staff there will not be able to choose to join the university staff association. They will lose that option to join the union or association of their choice. That is the decision he is taking on behalf of the Hon. Mr Elliott and the Democrats by way of this vote that he is about to cast, unless he changes his mind again on this issue.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: You have changed your mind; you have been all over this issue through the Bill today. You have been up and down the garden path and all over the place in relation to the question of the coherent national framework. The Minister's adviser almost had a heart attack earlier and members opposite choked on their cornflakes when the honourable member voted with us, but the Government managed to get him back on the rails in relation to the last vote and it has him firmly in the saddle now, when the crunch questions come about sections 119 and 124. As I said, the Hon. Mr Gilfillan is saying to the professional staff down there at the University of Adelaide that they cannot have a choice to continue to be represented by the university staff association. They can run off and join the federated clerks or the PSA—

Members interjecting:

The Hon. R.I. LUCAS: Maybe, if you do your deals, even the 'misco's' or the liquor trades; but you will have to do better deals because at the moment the federated clerks and the PSA have the inside running. You still have a month and a bit to do your deals and see whether you can get the inside running on the federated clerks or the PSA.

I can understand the Government and its union masters doing deals and wanting to carve up the smaller staff associations, because they are not always in the pocket of the Labor Party and the Labor Government; they want to represent their members. So, I can understand the Government's attitude; at least it is pretty consistent on this. Members of the Government can fight among themselves as to which of them get which elements of the carcass of the professional staff association of the University of Adelaide; they can fight over that and pick over the carcass, but I cannot understand the Hon. Mr Gilfillan, particularly because of the attitude he expressed earlier in wanting to know what on earth this coherent national framework was about. He knows what it is about in relation to higher education institutions, because I have indicated to him, and he can look at Laurie's draft of how he wants to carve up the university staff associations in South Australia, which significant unions will be under the coherent national framework in higher education. The significant unions will be the PSA and the federated clerks at the moment.

The Hon. T.G. Roberts: They won't affiliate with your lot.

The Hon. R.I. LUCAS: That is probably right, but I do not know how that enters into this debate. They have carved it up. They are the two significant unions in relation to the higher education area.

The Hon. R.J. Ritson interjecting:

The Hon. R.I. LUCAS: No; federated clerks are a good centre left union, I am advised, and I suspect that the PSA is probably in the same camp. I give this as an example of only one area—the higher education area—as to how this coherent national framework will work. The only reason I am aware and Parliament is aware of what is intended by Laurie and the boys in the ACTU about this notion of a coherent national framework is that as shadow Minister I was given some information as to the draft thinking and the intention in relation to the Industrial Relations Commission. I do not know, and I suspect from Mr Gilfillan's comments earlier that he does not know—he is blissfully ignorant, as are the rest of us, about what the draft thinking is in relation to the coherent national framework in other areas of industry—which are the significant unions in the areas and which are the smaller associations and unions that will be carved up.

In some areas the Hon. Mr Gilfillan might agree that there is a need for rationalisation and, as the Hon. Mr Griffin has indicated, we would agree that in some areas there may be a need for rationalisation as well. However, the decision ought to be made after we know the facts—or, as the Hon. Mr Gilfillan indicated earlier, after this coherent national framework manifests itself—so that we can look at it and make a judgment about whether we believe it is proper and appropriate for that industry. Not only can the Hon. Mr Gilfillan make a judgment about it; so, too, could we but, more importantly, so could the members of the smaller associations and bigger unions within that industry.

Let us be aware of the knowledge and the facts before we sign away, by means of this legislation, any options that we might have for change. All I can reveal in this debate at the moment is what we know in relation to one particular industry and one particular area, and that is the area of higher education institutions. I cannot give information about other areas but, as sure as God made little apples, what we see here with Laurie and the boys and how they are carving up smaller unions and associations, similar deals will be done in relation to other areas of industry. We will see similar tables to this six page table, indicating which unions will get the inside running for coverage of particular institutions. Similar documents will be prepared by Laurie and the boys and girls in the ACTU for coverage through the industry associations. We do not have that at the moment.

As I said earlier, it is just so inconsistent of the Hon. Mr Gilfillan to, in effect, reject this amendment thus far without any explanation at all to the University Staff Association, its branches at the University of Adelaide and Flinders University, and he owes it to them to stand up in the Chamber and either justify his vote (so that the Hon. Mr Elliott at least has a wing to fly with when he goes down to the university) or indicate again that he is prepared to change his stance on the coherent national framework and go back to the position he held this morning, before he changed his mind again early this afternoon.

The Hon. T. CROTHERS: I did not intend to speak in this debate but, after hearing the comments of the Hon. Mr Lucas and those of the Hon. Trevor Griffin about the section 41 (1) *(d)* argument of the right to conveniently belong, I must say that it never ceases to amaze me about the India rubber nature of the double standards of the Liberals. First, they must not trust their Federal colleagues with respect to legislative change which will be required and which has been entered into to put in place the national type of framework that the honourable member talks about; secondly, for years the Liberal Party has been bleating that there are far too many unions and too many issues of demarcation, and now we get a position where the trade union movement, under the leadership of the ACTU, is agreeing with that and endeavouring to do something about it. If there is an amalgamation or whatever of unions, that must be done by ballot of the rank and file. If unions that are under the aegis of the ACTU are too small—take, for example, the Felt Hatters Union which has 14 members in the whole of Australia—that is the type of position that the Hon. Mr Lucas is putting to us, only he is endeavouring to utilise (but obviously does not understand) the legal argument that can be run about the right to conveniently belong.

As I said, either they do not trust their Federal colleagues in respect of matters that he and the Hon. Trevor Griffin touched on, or he is absolutely abysmally ignorant of what is happening, or they have been kidding us all along when they have talked for years about the fact that there are too many unions and that the issues of demarcation brought about by that facet of industrial relations are costing the country and its industries dearly. However, when we endeavour to do something about it, they do not want to know about it.

Some years ago in this State, in order to try to rationalise things on the wharf, the Federated Clerks Union gave up its coverage of a particular segment of its membership on the wharf and gave it to the Waterside Workers Federation, because that would mean fewer issues of demarcation, but it suits the Opposition's point of view to, at all times, blame the unions.

We never hear them talking about how many businesses have been put to the wall through takeovers by Bond and people such as that. They are kicking the little fellow, the worker, all the time because that has been their track record for 100 years. I suggest that, rather than going crook at the Hon. Mr Gilfillan, they should be recognising his stand on this issue for what it is worth. It is one of sensibility and sound commonsense because he understands absolutely what the whole thing is about.

That is more than I can say with respect to the Hon. Mr Griffin and the Hon. Mr Lucas. They are so bereft of arguments that they are grabbing at anything, particularly at things that really do not touch upon the clause before us. I, for one, have this to say about Mr Gilfillan: it is my view that he understands the clause much more fully than the Hon. Mr Lucas is prepared to give him credit for. It is, in fact, the Hon. Mr Lucas who does not understand that rationale that underpins the clause that we are debating. I congratulate Mr Gilfillan and I say 'Shame' to Mr Lucas for playing the man and not the subject matter.

The Hon. I. GILFILLAN: After the previous contribution there is probably little more that I need to say. However, I must say how much I appreciate the change of flavour in the obvervations of the Hon. Trevor Clothers of my contribution, at this stage, compared with some of the observations that he made last night. I do not wish to denigrate in any way what I thought was a very appropriate acknowledgment of my understanding of this clause.

I do not wish to imply indifference to any association currently registered in South Australia by indicating opposition to the amendment—in other words, continuing to accept that the wording of subparagraph (ii) would continue in this Bill. It is important to observe that in the commission's opinion it is consistent with implementation of the objective of achieving a coherent national framework of employee associations. It is not pulling too long a bow to infer from that that, first, there needs to be a coherent national framework in place before any responsible commission would be able to make a determination in accordance with this particular subparagraph.

Secondly, where there are registered associations in existence, it is reasonable to assume that they will continue. So, I have no hesitation in allowing the current wording to continue in the Bill. It reflects the observations I have made several times previously in this debate. I do not think it would be responsible of me to take up the time of this Council by repeating what I have said before more than three or four times.

That position might be at odds with some other members who have no compunction in repeating incessantly observations that they feel in some way or another enhances their view the more times they repeat them. I have already indicated my position in relation to this matter and I do not see any obligation for me to repeat it and to take up the time of all the people in this Chamber and of *Hansard* each time the matter is raised by the Opposition.

The Hon. K.T. GRIFFIN: The fact is that the principle is the same as that raised earlier, but it relates to a different matter, namely, registration. Previously, we dealt with this principle in relation to demarcation disputes and unregistered associations. We are now talking about the registration of associations and there is one other area that relates to registration of federally based associations. We are not rehashing the issue, so it is quite legitimate to put our point of view in relation to each occasion and each context in which it occurs.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, L.H. Davis, K.T. Griffin (teller), J.C. Irwin, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Pairs—Ayes—The Hons Peter Dunn and Diana Laidlaw. Noes—The Hons R.R. Roberts and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. K.T. GRIFFIN: I move:

Page 17, lines 26 to 40—Leave out subsection (3) and substitute:

(3) For the purpose of deciding whether to register an association under this section, the commission must consider whether it should consult with any association registered under this Act and may consult with any such asociation;.

On principle, I will continue to move these amendments. I recognise that the Hon. Mr Gilfillan has indicated that he does not propose to concede the points that my colleagues and I have been raising about the continuing reference to achieving a coherent national framework of employee associations, but I think that it is important to put the amendments in each case.

This amendment also requires the commission to consider whether, in relation to an application by an employee association to be registered, the commission should consult with the United Trades and Labor Council, and authorises it to do that. I see no reason for that to be specifically provided. It would suggest an unreasonable level of influence being exerted by the United Trades and Labor Council

potentially in determining whether or not these are employees who may not be members of any other union which is affiliated with the UTLC and who may not wish to be browbeaten by the UTLC.

The Hon. C.J. SUMNER: Opposed.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 21, lines 20 to 32—Leave out paragraph *(c)* and substitute:
(c) that there is no other association registered under this Act to which the members of the applicant organisation or branch might conveniently belong;.

This amendment relates to the registration of federally based associations, and this is the real crunch on this issue of a national framework of employee associations, because the registration of federally based associations in South Australia will undoubtedly mean conflict between State and Federal associations covering the same field and ultimate demise of South Australian associations. As I have indicated previously, I do not think that that is a good prospect. It is my view that the reference to the coherent national framework is inappropriate, but as both the Government and the Australian Democrats appear to be inextricably committed to this move towards super unions, I can do no more than put the Liberal view on the record and hope that some good sense might ultimately prevail.

The Hon. C.J. SUMNER: The Government opposes the amendment.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 21, lines 33 to 42—Leave out subsection (2) and substitute:
(2) In exercising its powers under this section, the commission must consider whether it should consult with any association registered under this Act and may consult with any such association.

This amendment relates to two matters: consultation with peak councils and the objective of achieving a coherent national framework of employee associations must be considered by the commission.

The Hon. C.J. SUMNER: The Government opposes the amendment.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 22, lines 27 to 43—Leave out subsection (3) and substitute:
(3) In deciding whether to deregister an organisation or branch under this section, the commission must consider whether it should consult with any association registered under this Act and may consult with any such association.

I regard this also as an important amendment because it relates to new section 125 dealing with deregistration. It provides that the commission may deregister an organisation if the organisation or branch applies for deregistration, if it contravenes or fails to comply with a provision of the Act or its rules, if it wilfully contravenes or fails to comply with an award of the commission, if it is administered in a manner that is oppressive or unfair to members, if the organisation abolishes its South Australian branch, or if its rules cease to confer on the South Australian branch a reasonable degree of autonomy in the administration and control of South Australian assets.

It is not just South Australian members who will make the decision. The decision will be taken largely by members outside South Australia and South Australian members will have no say in whether or not the rules of the organisation should be so amended as to remove from the South Australian branch a reasonable degree of autonomy in the administration and control of South Australian assets. I suggest that the future for South Australian branches is bleak and control will ultimately be exercised outside South Australia. If one looks at those who may apply for deregistration of an organisation or a branch, one can see that it is very open-ended. The organisation or branch can apply, as can the Minister, a member or former member, and the Registrar.

At a political level there can be an application for deregistration; presumably whether or not the application is granted will depend upon whether the conditions precedent to that have been satisfied. However, if they have, the organisation or branch will be deregistered. In addition to the conditions precedent to the registration being satisfied, the commission must also consider whether it should consult with the United Trades and Labor Council but, more particularly, have regard to the objective of achieving a coherent national framework of employee organisations.

In this context of deregistration, it seems to me that it is more than likely that this section will be used to get rid of organisations or branches of organisations in South Australia, in favour of the Federal organisation. I suggest it will be a positive decision of the Minister rather than a passive matter by which this will occur. It will not evolve: it will be initiated, so long as there is an ALP Minister in this State. Again, I make the very strong point that this militates against South Australian associations, and that is the reason for my amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment negatived.

The Hon. C.J. SUMNER: I move:

Page 23, after line 15—Insert new section as follows:

Federations

126a. (1) Where—
(a) a federation of organisations is recognised under the Commonwealth Act;
and
(b) one or more of its constituent members are registered under Division III,
the federation may, subject to subsection (2) and the regulations, act under this Act as the representative of the constituent members that are registered under Division III.

The amendment is a direct reflection of a provision in the Commonwealth Act which recognises, for the purposes of representation, federations of organisations. Federations are a precursor to the amalgamation of organisations. Federations are recognised before the Commonwealth commission, therefore, for consistency, and in particular the orderly conduct of joint sittings, this mirror clause is sought in the State Act.

The Hon. K.T. GRIFFIN: It is interesting that the Attorney-General argues that this is a direct reflection of what is in the Federal Act and ought to be included here. It is a pity that in some respects there was not consistency of approach.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 23, line 38—Leave out 'Division 9 fine' and substitute 'Division 7 fine'.

I was concerned that the penalty for a person employed in duties connected with the administration of the Act divulging information as to the membership of a registered association, except in the performance of official duties or as may be authorised by the association or the President of the Industrial Commission, should be only a Division 9 fine. I recognise that that is what is in the principal Act, but it seems to me that for divulging information otherwise than in the performance of official duties there ought to be something more onerous than a Division 9 fine. For that reason, I propose a Division 7 fine, which is a maximum

of $2 000. Personally, I would like to see imprisonment as part of the penalty. I think that we ought to treat unlawful disclosure as a serious matter and increase the penalty.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 23, after line 38—Insert new subsection as follows:

(6a) A member of an association who obtains information about another member of the association through an inspection of a register of the association under this section must not divulge that information to a third person unless:

(a) the disclosure is required or authorised by or under any other Act or law;

(b) the disclosure is before a court or tribunal constituted by law;

(c) the disclosure is made with the written consent of the person to whom the information relates;

(d) the disclosure is made by the member in the performance of official duties on behalf of the association;

(e) the disclosure is authorised under the rules of the association;

or

(f) the disclosure is in accordance with the regulations.

Penalty: Division 7 fine.

I seek to include an additional subsection to cover matters not covered by the Bill in respect of information about a member of an association. There should be some provision clearly identifying that, if information is obtained about another member of an association through the inspection of a register, that information should not be divulged by the member unless it is in accordance with the provisions of my amendment. A great deal of harm can be created by the unlawful disclosure of information, which might result from a member of an association inspecting the register of members, and that ought to be discouraged. The amendment provides for a Division 7 fine. I seek leave to amend my amendment, as follows:

Leave out 'Division 7' and insert 'Division 9'.

Leave granted; amendment amended.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment as amended negatived; clause as amended passed.

Clause 43—'Limitations of actions in tort.'

The Hon. I. GILFILLAN: I move:

Page 24, lines 32 to 37—Leave out subsection (3) and substitute:

(3) Where—

(a) —

(i) an industrial dispute has been resolved by conciliation or arbitration under this Act;

and

(ii) the Full Commission determines on application under this section that in the circumstances of the particular case the industrial dispute arose or was prolonged by unreasonable conduct on the part of the person against whom the action is to be brought;

or

(b) the Full Commission determines on application under this section that—

(i) all means provided under this Act for resolving an industrial dispute by conciliation or arbitration have failed;

and

(ii) there is no immediate prospect of the resolution of the industrial dispute,

a person may bring an action in tort notwithstanding the provisions of subsection (1).

This matter was the subject of amendment in earlier Bills in this place. I had a hand in framing the wording now in the Act. Paragraph *(b)* remains as it is currently in the Act: where there has been no resolution there is no restraint on bringing an action in tort. I believe that there is little purpose in having in the Act a measure that militates against the resolution of a dispute, and there is little point in revenge for revenge's sake. However, I do not see any justification for completely exempting a party to a dispute from the responsibility of irresponsible and wantonly destructive action.

I consider that the amendment which I have drafted enables the full commission, although determined to resolve the dispute, also to be able to recognise that, perhaps, one of its injunctions has been ignored, as happens from time to time, or that there are particular circumstances in which damage and justification for compensation, in its opinion, entitles a complainant to take an action in tort. With that in mind, I have moved my amendment.

The Hon. C.J. SUMNER: The Government opposes the Hon. Mr Griffin's amendments and will support the Hon. Mr Gilfillan's amendment, which deals with the question of tort actions in industrial disputes and which has been thoroughly debated previously. As a result, I will not canvass the arguments again.

The Hon. K.T. GRIFFIN: The Liberal Opposition has a very strong view that not only the Government's amendment but also that of the Hon. Mr Gilfillan in clause 43 should be opposed although this now appears to be academic. We also have a very strong view that the limitation on a right of any person to go to the ordinary courts of the land to take action in tort ought not to be restricted. The Hon. Mr Gilfillan indicates that he had a hand in the drafting of the existing section 143a.

The Hon. I. Gilfillan: In the earlier Bills I worked amendments to get that in place.

The Hon. K.T. GRIFFIN: I know. I was going to make a comment on it. The Hon. Mr Gilfillan says that he was involved, and I know that. I disagreed violently with him then and I do so now, and neither I nor the Liberal Party accepts that there ought to be any restraint on the right of an individual to take action at common law if there is an industrial dispute which is causing loss and damage.

The Hon. Mr Gilfillan may categorise that as support for revenge action, but I suggest that many of the notable uses of either this provision or the provisions under the Federal Trade Practices Act are not revenge actions but actions taken with a view to trying to resolve a dispute. Ultimately, sanctions must be imposed. The difficulty with section 143*a* and the Federal Government's proposal to abolish the relevant provisions of the Federal Trade Practices Act is that there are no sanctions, and it just becomes a very clubby atmosphere in which no-one will settle disputes because no ultimate pain is involved if there is not a move towards settlement and an actual settlement.

In this State, before the restraints of section 143a were put into the Act, there were a number of cases in which action was taken in the Supreme Court for injunctions, which ultimately brought the disputes to a head.

Those who were the defendants—some particularly militant trade union leaders and the trade unions—were hurt, because they were totally irresponsible in holding communities to ransom. One has only to reflect on the Kangaroo Island dispute involving Mr Woolley, where ultimately the Australian Workers Union and Mr Dunford were brought to heel, and the black ban on Kangaroo Island and on Mr Woolley, in particular, was brought to an end—although, in that case there was the disgraceful conclusion in that the then Labor Government paid Mr Dunford's costs.

There was also the black ban on the Seven Stars Hotel and the use of Adriatic Terrazzo and a number of other notable court cases at the time, all of which were testimony to the good sense of making trade unions and trade union leaders subject to the law. Of course, the law can be used equally against employers in the context of lock-outs and similar sorts of actions. However, to interpose the Full

Industrial Commission, which is not known for taking a hard line on significant industrial disputes, is a hurdle that will never be jumped. I do not know of any case where there has been an action at common law with the concurrence of the Full Industrial Commission since section 143a has been in the Act.

In my view, one cannot allow any members of the community to be above the law that affects every other citizen. Section 143a puts trade unions and trade union leaders in a favoured position so far as the law is concerned, where there is unlikely to be any quick resolution of a very damaging confrontation.

One could really ask why, if the Government was intent upon bringing State law into line with Federal law, there should not also be a reflection of the Trade Practices Act provisions in this Bill. However, one can readily answer that question: as has already been demonstrated, the Government is picking up and choosing what it wants to incorporate in this Bill under the guise of adopting Commonwealth legislation to provide uniformity but, in fact, picking up only what suits it.

This Industrial Relations Act will no more be a mirror of Federal legislation than a fly in the air. I oppose the clause, and I do not expect that I will be successful. However, it is an issue of significance and, if I lose on the voices, I will certainly call for a division.

The Hon. I. GILFILLAN: I think it is significant to repeat an observation I made during my second reading contribution: that if, in the fullness of time, we get what I believe is a reasonable reform of the industrial law—that there is a right to strike—this whole aspect of torts and damages will quite properly be reviewed. However, in the current situation I believe that my amendment is reasonable.

Amendment carried.

The Committee divided on the clause as amended:

Ayes (9)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Noes (8)—The Hons J.C. Burdett, L.H. Davis, K.T. Griffin (teller), J.C. Irwin, R.I. Lucas, Bernice Pfitzner, R.J. Ritson, and J.F. Stefani.

Pairs—Ayes—The Hons R.R. Roberts and Barbara Wiese. Noes—The Hons Diana Laidlaw and Peter Dunn.

Majority of 1 for the Ayes.

Clause as amended thus passed.

Clauses 44 to 46 passed.

New clause 46a—'Insertion of section 155a.'

The Hon. K.T. GRIFFIN: I move:

Page 25, after line 18—Insert new clause as follows:

Insertion of s. 155a

46a. The following section is inserted after section 155 of the prinicpal Act:

Voluntary membership of associations

155a. (1) A member or officer of a registered association must not harass a person, or cause a person to be harassed, in relation to whether or not that person is willing to become a member of the association.

Penalty: Division 8 fine.

(2) For the purposes of subsection (1), a person harasses another if he or she performs an act or undertakes a course of conduct that causes the other person to feel intimidated or offended and it is reasonable in all these circumstances that the other person should feel intimidated or offended by that act or conduct.

This clause needs to be in the Act as it reflects the voluntary membership of unions and provides a protection against harassment. My amendment creates an offence for a member or officer of a registered association who harasses a person in relation to whether or not that person is willing to become a member of the association.

In the House of Assembly there was some criticism of this because there was no definition of harassment, so proposed subsection (2) covers that omission. The description is almost identical to that contained in the Equal Opportunity Act. It goes a long way to meeting the objections raised in the House of Assembly. As I said earlier, the Liberal Party and I have a strong view that persons should be free to join or not join an association as they see fit. There ought to be real freedom of choice. Unless that is backed by some penal provision with the sting in the end of the tail, it does not matter how much people talk about freedom of association or voluntary membership, it is unlikely to occur in circumstances where a committed course of action is being taken to encourage a person to belong by harassment. It is an important provision.

The Hon. J.F. STEFANI: I strongly support the remarks and the amendment moved by my colleague the Hon. Trevor Griffin. I also feel strongly about the freedom of choice that should be afforded individuals, particularly workers who may feel, as we have heard from the Government backbench, intimidated by employers. They should have a choice to join a union which can look at their interests in regard to dealing with their employer. Equally, workers who do not feel threatened or feel the necessity to join a union should be able to represent themselves and have a choice on whether or not they belong to a union.

The argument that people who do not join a union are sponging on the efforts of the union with regard to conditions of employment is utter nonsense. I have seen the practicality of people in the workplace, having worked for a boss for 20 years: you do not have to be represented by a union to show your initiative or capacity to work and produce a result. By and large most employers are very conscientious about one's efforts. With that in mind, I strongly support the amendment as it is a democratic right that we should all observe and is the human right of all individuals. Provisions are contained within legislation for the Human Rights Commission and other instrumentalities. We should observe the freedom of choice of the individual that pursue the actions that he or she may wish to observe. Equal opportunity means the opportunity to do as one wishes within the law and it is quite lawful to not belong and equally lawful to belong. I strongly support the amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment.

The Hon. I. GILFILLAN: I have had an opportunity to consider this amendment and I see no reason for accepting it. I recognise that there is a requirement of propriety in the way people are approached in these matters as they are in any other matters, and I think there is scope in the Act for an employer who believes that untoward behaviour has occurred that may constitute harassment to take action under the appropriate Act. I oppose the amendment.

The Committee divided on the new clause:

Ayes (8)—The Hons J.C. Burdett, L.H. Davis, K.T. Griffin (teller), J.C. Irwin, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Pairs—Ayes—The Hons Diana Laidlaw and Peter Dunn. Noes—The Hons R.R. Roberts and Barbara Wiese.

Majority of 1 for the Noes.

New clause thus negatived.

Clause 47 passed.

New clause 47a—'Employees to keep certain records.'

The Hon. C.J. SUMNER: I move:

Page 25, after line 24—Insert new clause as follows:
Employees to keep certain records
47a. Section 159 of the principal Act is amended by inserting after subsection (7) the following subsection:
(8) Unless otherwise provided by an award or industrial agreement, where an employer is required to make contributions to a superannuation fund in accordance with this Act or an award or industrial agreement for the benefit of an employee, the employer must, at the time that the employer makes a payment of wages, provide the employee with a written record showing any amount paid by the employer to the superannuation fund for the benefit of the employee during the period to which the payment of wages relates.

This will require employers to notify employees at the time wages are paid of the amount the employer is paying into a superannuation fund in accordance with the award or industrial agreement. This will protect both employers and employees by affirming that payments are occurring and that records are being kept.

The Hon. I. GILFILLAN: I support it; it is a great amendment.

New clause inserted.

Clause 48—'Punishment for contempt.'

The Hon. K.T. GRIFFIN: I move:

Page 25, lines 26 to 30—Leave out all words in these lines after 'amended' in line 26 and substitute 'by inserting after subsection (2) the following subsections:'.

This relates to punishment for contempt. My concern about the Government's Bill is that it allows not only the court but also the Industrial Commission to proceed forthwith to convict a person who may be in contempt and to fine the offender. Previously we have fairly jealously guarded the rights of individuals to be convicted only by ordinary courts, where there is an appropriate avenue of appeal, recognising also in relation to convictions that courts, even in the area of contempt, have to be satisfied beyond reasonable doubt that an offence has been committed. The commission is not bound by the laws of evidence in relation to that sort of conviction. So, I want to amend the clause to retain the existing section 166 (2) of the Act and then also to ensure that if a proceeding occurs, the court—or the commission, if I am not successful in deleting subsection (2)—must give the relevant party an opportunity to be heard in relation to the matter.

The Hon. C.J. SUMNER: The Government opposes this amendment. The Bill's provision is in line with the Federal Act and will give the commission greater powers to control the behaviour of those persons appearing before it. The Government will support the next amendment.

The Hon. I. GILFILLAN: I suspect that the Hon. Trevor Griffin would be grateful for that support.

The Hon. K.T. GRIFFIN: I still think an important principle is involved and I do not think that, where a conviction is to be recorded, it ought to be a matter that can be dealt with by a body such as a commission. A commission is not a court and I think only courts ought to be able to convict and to fine, but the Government's subsection (2) provides that it is the court and the commission which both have that power, and that is why I am certainly not satisfied with only part of my amendment to this clause being passed. I would certainly argue for both.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 25, after line 42—Insert new subsection as follows:
(4) The court or commission must not proceed to act under subsection (3) without first giving the relevant party an opportunity to be heard in relation to the matter.

The Hon. C.J. SUMNER: I support that.

Amendment carried; clause as amended passed.

Clause 49—'Proof of awards, etc.'

The Hon. C.J. SUMNER: I move:

Page 26—
Lines 3 and 4—Leave out 'subsections (1) and (2)' and substitute 'subsection (1)'.
Line 5—Leave out 'and'.
After line 7—Insert—
and
(c) by striking out subsection (2).

This is to correct a drafting oversight. It is consequential to clause 44 of the Bill which replaces the *Industrial Gazette* with notices via the newspapers. The new procedure will result in cost savings to the Government and an improved service to clients.

The Hon. K.T. GRIFFIN: Will those procedures relate also to the publication of any changes to an award?

The Hon. C.J. SUMNER: Yes.

Amendments carried; clause as amended passed.

Clause 50—'Conduct by officers, directors, employees or agents.'

The Hon. K.T. GRIFFIN: I indicate opposition to this clause. It is a unique provision in South Australia which begins to endeavour to interpret intention on the part of a body corporate. In the past few years we have had a somewhat different provision relating to the liability of officers of bodies corporate which, although it has defects, is I think to be preferred. This matter is contained in the Commonwealth legislation, but I must confess that I am not able to determine why it should be included in the South Australian legislation when it has not been included in industrial or other legislation at any stage.

The Hon. C.J. SUMNER: The Government supports the clause.

Clause passed.

Clauses 51 to 54 passed.

Clause 55—'Transitional provisions.'

The Hon. K.T. GRIFFIN: I move:

Page 28, after line 28—Insert subsection as follows:
(7a) Before an association is declared to be affiliated with a particular organisation the Minister must give the association written notice of terms of the proposed declaration and if within three months after the giving of the notice the association, by ordinary resolution of its members, disapproves the proposal, the declaration cannot be made.

When I had a close look at the transitional provisions I was very concerned to find that an association may be declared by regulation to be affiliated with a specified organisation without any consultation at all between the Government of the day and the association. The consequences of affiliation are that, at the end of the transitional period of four years from the date on which the repeal and re-enactment of Part IX takes effect, each affiliated association ceases to have a separate legal identity and its property rights and liabilities vest in or attach to the organisation with which it is affiliated. Its rules are revoked and certain other consequences apply.

If the association's rules are different from the rules of the organisation with which it is affiliated, there are other consequences, such as, the President must by notice in the *Gazette* exempt the affiliated association from the operation of subsection (4). As I said at the outset, I am concerned that there is no provision for consultation with a State association before the regulation is made declaring it to be affiliated with a specified organisation. I want to insert an additional subsection that provides that, before an association is declared to be affiliated with a particular organisation, the Minister must give the association written notice of the terms of the proposed declaration. If within three months after the giving of the notice the association, by ordinary resolution of its members, disapproves the proposal, the declaration cannot be made. That gives a responsibility to members of the association.

It tends to favour the making of the regulation, because if nothing is done within three months to disapprove the proposal, the declaration by regulation can be made. It seems to me that that meets the requirements of natural justice and ensures that there is consultation and that the consequences that flow from declaration are fully considered by the members of the association. One of the problems I foresee with the declaration of affiliation by regulation is the ultimate termination of the affiliated association and its vesting of property rights and liabilities in another organisation and it may have had no say in what occurs. It may be only a remote possibility, but I think the protection ought to be there.

The Hon. C.J. SUMNER: The amendment is opposed by the Government.

The Hon. I. GILFILLAN: I understand that the trade union movement is not unhappy with or concerned about these transitional provisions. On the basis that they would stand to lose the most, if they felt unhappy about it they would have said so and would have objected to it. I oppose the amendment.

The Hon. K.T. GRIFFIN: That is a very broad description by the Hon. Mr Gilfillan of what might be the view of the trade union movement. I think we have to recognise that there are small associations that are not affiliated with the United Trades and Labor Council, and obviously they would not have been consulted by the Government in relation to this Bill. I would have thought that this would provide a necessary precaution against abuse without prejudicing the operation of the scheme of affiliation if we were to provide this protection.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 28, lines 29 and 30—Leave out subclause (8).

This amendment relates to the peak council. The Commission, on the application of the United Trades and Labor Council, must register it as an association, under Division II Part IX. It has been clear from what I have said during the whole of this debate that the Liberal Party is opposed to that.

The Hon. C.J. SUMNER: Opposed.

The Hon. I. GILFILLAN: Opposed.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 29, lines 12 to 16—Leave out paragraph *(b)* and substitute—

(b) any proceedings before the Teachers Salaries Board at the time of those amendments may continue before the Teachers Salaries Board as if those amendments had not been effected.

This results from consultation that my colleague the Hon. Robert Lucas had with teacher representative organisations. There was a concern that there are matters before the Teachers Salaries Board which, if the transitional provisions in proposed subsection (11) *(b)* were to stand, would be prejudiced. It is appropriate to allow current proceedings before the Teachers Salaries Board to be completed, with the board as presently constituted, rather than merely being constituted before the judge of the Industrial Court or the Special Magistrate who is Chairman of the board.

The Hon. I. GILFILLAN: I support the amendment because I have an identical one on file. Historically, it is important to record in *Hansard* that the Democrats were the first to be supportive of this initiative by the teachers. From my conversations, I understand it was some time before the Opposition was even aware of this initiative and the President of SAIT (David Tonkin) was uncertain as to the Opposition's position on the matter. The Democrats indicated clearly and unequivocally from the beginning that it was only fair that a matter that had been started with ground rules in territory predicted by both parties involved should proceed to its termination in that forum.

We have rightly benefited from the appreciation of the South Australian Institute of Teachers for showing sympathy and consideration for its interests in this matter. However, I am grateful that, in the latter stages when the numbers were going to be important, the Opposition has seen fit to support this initiative. With those few remarks and in the spirit of coordinated unanimity between the Democrats and the Liberal Party on this issue, I believe that the teachers' salaries matter will be properly and fairly heard.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan has given one version of the debate on this clause and he has used his Democrat rose-coloured glasses to do so. I indicate to the Hon. Mr Gilfillan that the only reason that the Institute of Teachers became aware of the problem was that the Liberal Party made contact with its industrial officer (Mr Gus Story) and provided him with copies of the legislation, seeking comment as to the institute's concerns about the legislation. It was only then that the institute looked at the legislation and realised that there were changes in relation to the Teachers Salaries Board.

The Hon. I. Gilfillan: Hadn't the Government sent them the Bill?

The Hon. R. I. LUCAS: No, it had not. The Government had not consulted with the Institute of Teachers or the University Staff Association and it was only through the offices of the shadow Minister of Education that the institute's industrial officers looked at the legislation. Having done that, they approached me and indicated that they had some concerns about the transitional provisions for the Teachers Salaries Board. At the same time, I suggested that the institute should speak to the Democrats as well because while I as shadow Minister and one member of the Liberal joint parliamentary Party room could give the institute a version of what I would like to do, I could not have a Caucus meeting in a telephone box and decide straight away. I explained that I had to take the matter to the Party room and to shadow Cabinet, and I indicated that I would do that. I concede that the Hon. Mr Gilfillan might have been able to give an instant reaction because of the decision-making processes of the Australian Democrats and that I was unable to give an instant decision on behalf of the Liberal parliamentary Party.

The Hon. I. Gilfillan: How come it took you a fortnight?

The Hon. R.I. LUCAS: Well, we have to consider these matters. I place on record that the Hon. Mr Gilfillan would not have been aware of it had we not contacted the Institute of Teachers and raised the question of the Bill and the removal of the Teachers Salaries Board into the Industrial Commission. Perhaps the Hon. Mr Gilfillan would be generous enough to say that both the Liberal Party and the Australian Democrats could jointly share credit for what is being achieved in the Committee stage.

The Hon. T. CROTHERS: Since late last year, the Institute of Teachers has been asked by the United Trades and Labor Council, with which it is affiliated and which is its peak union body in South Australia, to indicate whether it has any problems with this Bill. I understand that a series of meetings were held with the Trades and Labor Council, but the SAIT delegates did not choose to attend and they have not responded to the repeated requests of the UTLC about whether they have found fault or failing in the Bill. I do not know why the institute sought out the Liberal Party when it did not respond to its own peak union council. Let us keep everything above board, as is our wont on this side, and let us not introduce impediments that may stop pro-

gress. I place that on record so at least from our side we maintain our usual high standard of honesty in the debates that take place in this Chamber.

Amendment carried.

The Hon. K.T. GRIFFIN: I move:

Page 19, lines 17 and 18—Leave out '(9), (10) or (11)' and substitute '(9) or (10)'.

This is consequential.

Amendment carried.

The Hon. C.J. SUMNER: I move:

Page 29, after line 24—Insert new subclause as follows:
(13) An appeal lies to the Full Commission against any award of the Teachers Salaries Board made in any proceedings continued under subsection (11) as if the award were an award of the commisison constituted of a single member.

This is consequential on the amendment that has just been carried to retain the matters that are currently before the Teachers Salaries Board. It provides that there can be an appeal to the Full Commission from any decision that is made by the Teachers Salaries Board during this transitional period.

The Hon. K.T. GRIFFIN: I oppose the amendment. It is not consequential; it is just a desire by the Government to maintain some control over the Teachers Salaries Board. I understand that presently there is no appeal from the decisions of the board and, if that is the present case, I do not see why we should suddenly be imposing an appeal process. The whole object of the amendment which I moved and which the Hon. Mr Gilfillan supported was to maintain the *status quo* in respect of current proceedings. That is the way it should stay and, for that reason, we oppose the amendment.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. It is nice to see the Opposition, somewhat belatedly, coming to the defence of what one would regard as the shadow Education Minister's flock down at Greenhill Road. I am sure that they will appreciate it, even if it did come somewhat belatedly and left them biting their nails. We have already argued that we believe that the teachers should be able to hear the matter through. The board will be abolished at the termination of the case and there is no reason to tinker with the rules before the matter is concluded. I oppose the amendment.

Amendment negatived; clause as amended passed.

Title passed.

Bill reported with amendments; Committee's report adopted.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN: I want to say briefly that, although the Bill is an improvement on that which went to the Committee, there are still major concerns which the Opposition has with it. We acknowledge that there have been some successes, particularly in relation to preference to unionists, but the inclusion in the Bill of one of the key matters of debate, the national framework of registered associations of employees, does cause us considerable concern.

We would see that there is no disadvantage to the industrial area for us to oppose the Bill and for it to be defeated. I doubt it will be defeated, because of what the Hon. Mr Gilfillan indicated during the course of the debate, but we oppose it and, if we are not successful on the voices, we will divide.

The Council divided on the third reading:

Ayes (9)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Noes (8)—The Hons J.C. Burdett, L.H. Davis, K.T. Griffin (teller), J.C. Irwin, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Pair—Ayes—The Hons R.R. Roberts and Barbara Weise. Noes—The Hons Peter Dunn and Diana Laidlaw.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Returned from the House of Assembly with the following amendments:

No. 1 Clause 5, page 2, line 15—After 'The Governor may,' insert 'with the concurrence of the Chief Justice,'.

No. 2 Clause 7, page 2, lines 34 to 39—Leave out the clause.

Consideration in Committee.

The Hon. C.J. SUMNER: I move:

That the House of Assembly's amendments be agreed to.

The first amendment is a matter raised by the Hon. Mr Griffin about the place at which issues of probate would be kept secure. That has now been agreed to. His suggestion that the place at which they should be kept should be with the concurrence of the Chief Justice has been incorporated.

The second amendment deletes the clauses relating to the abolition of the year-and-a-day rule. The Government is somewhat disappointed that the Opposition has insisted that this clause be deleted. We do not believe that there is any need for any further argument about the matter and it has been abolished elsewhere. It was recommended by the Mitchell committee and nothing can be achieved by deferring it any further. As I said, because this is an omnibus Bill, if the Opposition felt that it should be deleted, the Government would go along with it. Nevertheless, I believe that is regrettable because in my view nothing more will be achieved between now and August in debate about the year-and-a-day rule. However, I urge that the amendment be agreed to.

The Hon. J.C. BURDETT: I support the first amendment and urge the Council to accept it. The second amendment principally relates to the year-and-a-day rule. I said when the matter was last debated in this Chamber that the Criminal Law Committee of the Law Society wanted time to consider the matter.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: Whatever what the Attorney thinks, the Criminal Law Committee said that it wanted time, and it has written a letter giving that view. It had not previously considered the matter.

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Burdett.

The Hon. J.C. BURDETT: The Criminal Law Committee of the Law Society had not seen the Bill before I faxed it to them. It had not considered the Bill. It is my view, as I said before, despite what the Attorney is saying, that if we are to tamper with a longstanding common law definition of such a serious matter as the crime of murder it is reasonable that the Criminal Law Committee of the Law Society—the people dealing with the matter from day to day, and not just academically, but the practical people in the field—should have the opportunity to consider it. The society has written saying that was its view. When the matter was previously dealt with in this Chamber the Attorney said that Mr Matthew Goode had been present at two meetings of the committee after he announced his intention to do

this. That is true, but the matters were not raised, and the committee did not see the Bill until I faxed it.

After all, for goodness sake, we deal with Bills in this place, and so does the Law Society—not with statements in the press and not with announcements by the Attorney, but with Bills—and the society had not seen the Bills. The President of the Law Society wrote to the Attorney on behalf of the society—not just the Criminal Law Committee—requesting that the matter be stood over. Therefore, I believe that it is entirely proper that the matter should be stood over and that is the effect of this amendment, which I support.

Motion carried.

HOLIDAYS (LABOUR DAY) AMENDMENT BILL

Received from the House of Assembly and read a first time.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos 1 to 39 and 41, and that it had disagreed to amendment No. 40.

Consideration in Committee.

The Hon. C.J. SUMNER: I move:

That the Council do not insist on its amendment No. 40.

This amendment relates to whether in the local government Freedom of Information Bill on appeal from a local court to the Supreme Court could be made on issues of both fact and law. The House of Assembly is of the view that that appeal should be able to be taken only on matters of law. The Council disagreed with that. However, I am asking the Council now to change its view and to agree that in those matters involving local government an appeal from a decision of the local court can only be taken to the Supreme Court on issues of law, not fact.

The Hon. K.T. GRIFFIN: It is my view that the Council should insist on its amendment. To insist on the amendment means that the provision in the Local Government Act relating to appeals to the Supreme Court will be uniform with those in the Freedom of Information Act 1991. On most, if not all, major issues there has been consistency between the two pieces of legislation. I indicated during the course of the debate that, if the magistrates courts, or even the district courts, were involved in hearing appeals from decisions of councils in relation to access to information, there ought to be a full right of appeal to guard against injustice. If we do not insist on our amendment, I think we must look out for, and expect, injustice to occur at some time in the future if the full appeal is not available that the Liberal Opposition believes ought to be available.

The Hon. M.J. ELLIOTT: Members may recall that when we were debating this clause yesterday I was rather equivocal about where I would lay my support. Ultimately I supported the amendment, simply on the basis of the argument of uniformity between this Bill and the Freedom of Information Bill. I hope members will also recall that during the debate on the Freedom of Information Bill I expressed great concern about whether or not there is real access to justice. In fact, I moved amendments to the FOI Bill that sought to treat costs in a different way from the way in which they are normally treated so that a person could not use the power of the purse to deny justice to individuals. Ultimately I lost that amendment when we went to conference. When we talk about uniformity we are talking about something which was forced at conference, so, at the end of the day, the concerns that I raised in relation to the FOI Bill still exist.

I have said before in this place and say again that justice does not exist under law in Australia. Justice relies as much as anything not only on law but also on the power to go to a higher court of appeal so that those who cannot afford to continue action are forced out. My personal leaning, because of those fears, is not to insist upon the amendment. I supported it on the basis of uniformity and I admit going to higher appeal courts has some attraction in justice, but that is assuming that we do not have the power of the purse in operation. In the real world we do and, until there is a willingness to look again at the question of the way costs are awarded, I see continuing problems. For that reason I will not insist on the amendment.

Motion carried.

[*Sitting suspended from 6.3 to 8.15 p.m.*]

RACING (SPORTING EVENTS BETTING AND APPEALS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

CITRUS INDUSTRY BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

STATE SUPPLY (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

INDUSTRIAL CONCILIATION AND ARBITRATION (COMMONWEALTH PROVISIONS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

ADJOURNMENT

The Hon. C.J. SUMNER (Attorney-General): I move:

That the Council do now adjourn.

I thank everyone for their assistance and help, during the past couple of days particularly.

The Hon. R.I. LUCAS (Leader of the Opposition): I second that and join with the Attorney-General in thanking you, Mr President, and all the staff who help us members of Parliament to get through the difficult last weeks of session.

Motion carried.

At 8.23 p.m. the Council adjourned until Tuesday 14 May at 2.15 p.m.